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POLITICAL SCIENCE QUARTERLY.

MUNICIPAL GOVERNMENT IN GREAT BRITAIN.

I. *Recent Municipal Development.*

IN the recent progress of Great Britain few things are more remarkable than the development of urban life and municipal institutions. It is true that the towns and their constitutions must be studied historically in order to be thoroughly understood; but it happens that as a rule the historic towns are no longer the important ones, and that the greater municipalities of England are quite as distinctively nineteenth century developments as are those of America. As corporations, Manchester and Birmingham are only fifty years old, having procured their charters in 1838. Sheffield, Bradford, Salford and many other large towns are of still more recent incorporation. And not a few of those whose charters are of earlier date, as Liverpool, Leeds and Nottingham, are just as essentially modern, their earlier municipal history having little or no importance. There are now 284 incorporated towns and cities in England and Wales, and 106 of these have received their charters since the municipal reform act of 1835. The new manufacturing towns are decidedly more populous than the old seaports and county capitals. Thus I find that of towns having a population of 25,000 or more there are nearly sixty which have been incorporated since 1825, while there are only about forty-five whose charters are of earlier date. One-half of the more recent corporations have the above-named minimum of population, while only one-fourth of the older places have it.

So far then as the great modern towns owe their forms of government to the past, it is to the general past of municipal

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institutions in England rather than to anything of a determining kind in their own individual histories. The municipal corporations reform act of 1835 preserved the old government of towns by a mayor, aldermen and councillors, while throwing open the franchise to the new classes of electors who had received the borough parliamentary franchise in the reform of 1832, and making the councillors directly representative of the burgesses. Since 1835, the framework of English municipal government has been simple, definite, regular and easily understood; and the new fabrics have been elaborated upon that framework. — It should perhaps be said parenthetically, at this point, that the Scotch municipalities, which offered less difficulty, were reformed as early as 1833, and that those of Ireland were neglected until as late as 1840. The Scotch system has some important points of difference from the English, and the Irish has also its own peculiarities. — The act of 1835, added to and amended by a great number of subsequent general enactments, formed a system that has been reduced to the simplest and clearest terms of expression in the great consolidation act of 1882, which repeals all former acts and is commonly known in England as the municipal code. Its emergence from the complications of a half century's prolific legislation — complications that seemed chaos to the layman and that justified the large emoluments, high honor and life tenure everywhere accorded the learned town clerks — has already proved a great boon to municipal officials. But general legislation has by no means bounded the activity of the expanding municipalities, and each has procured from time to time from Parliament and the central authorities the right to enter this and that new field of enterprise. So that while the large towns are similar in general organization, each has found room to exercise its own municipal individuality and to try its own experiments.

It would be a comparatively easy task to describe the English municipal system as it stands today written in the law of the land. To describe it, or some parts of it, in actual operation in the large towns is more difficult but also more profitable. The jottings which make up the present article are the outcome of a

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considerable amount of interested observation and close inquiry in large towns of England and Scotland, and have to do with the practical aspects of city government.

II. *The Franchise.*

While the general course of the franchise in Great Britain has been towards freedom and popularity, it is as yet so full of anomalies and distinctions that the citizen who can explain it is exceptional; and the foreign inquirer must be diligent and alert or some important proviso or detail will escape his notice. For purposes of illustration let us begin with Glasgow — the largest municipal corporation in the British empire, "greater London" not having as yet attained a unified corporate existence.[1] The qualified voters of Glasgow go to the polls at various times to elect (1) members of parliament, (2) members of the town council, (3) school boards, (4) parochial boards for the care of the poor and for other administrative work and (5) members of the Clyde Navigation Trust. For each of these purposes the franchise is different. The parliamentary list includes male householders who have lived within the limits of the town a year, have paid their rates and have received no relief from the parochial authorities. This list includes lodgers who occupy quarters worth £10 a year. It also includes all occupiers of non-residence property, provided they live within seven miles and provided the premises are worth £10 a year. Finally it includes owners of property worth £10 a year, provided they reside within seven miles of the limits. But there are several parliamentary constituencies in a large town, and a man who owns property in the different constituencies has a vote in each. Thus one man may have a number of parliamentary votes, though he may not cumulate them. The roll of municipal voters is the same in Glasgow and the Scotch towns as the parliamentary roll, with the important exception that women who are occupiers and rate-payers are allowed to vote, and with the further qualification that no man may vote in more than one

[1] London's new "county council," granted by the Local Government bill, 1888, should perhaps be regarded as the beginning of a great municipal government.

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ward, no matter how large an owner in other wards he may be. Very different still is the voting system for the election of parochial boards — all Scotland being divided into parishes and Glasgow comprising three. The size of the board varies with the population of the parish; but we will take for illustration a large city parish of 200,000 people that has a board of twenty-five members. The entire board is renewed annually, five members being chosen in each one of five subdivisions or "parish wards" (not to be confounded with the municipal wards). Poor rates in Scotland are divided between owner and occupier, and the voting is based upon the rate-payment. The ratable property in the particular parish I am citing for illustration is owned by 5,000 persons and occupied by 45,000 tenants and their families. The owners and the occupiers alike are entitled to from one to six votes apiece, according to the value upon which they pay rates. All who pay on a yearly value of £20 or less have a single vote, while all who pay on £500 or more have six votes, the values between £20 and £500 being graded and entitling the rate-payers to two, three, four or five votes. Rate-paying is the sole qualification, and residence and allegiance are immaterial. Let it be noted that the parochial vote is non-cumulative. That is, if A has six votes and there are five men to be elected, he may cast six votes and no more or no less for each man he votes for — and he may vote for five, although he may restrict himself to a smaller number if he chooses. Women rate-payers, of course, are parochial electors. And now as to the school-board franchise: all persons are school-board electors who are on the assessors' valuation roll for £4 and upwards, that is, who are either owners or occupiers of property of the annual value of £4. The entire school board retires every three years, and the new board is elected upon a general ticket, with the cumulative plan. The Glasgow board numbers fifteen; and from all the persons nominated the voter may select fifteen or he may give his fifteen votes to as few of the candidates as he pleases. The electorate for the Clyde Navigation Trust needs no further explanation than this, that it is limited so far as the rate-payers are concerned to those whose valuation exceeds £20.

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This discussion of the franchises other than the municipal is, in strictness, a digression; but it is entirely germane to the purpose of my article. Which of these electorates is the broadest and most popular? The reader will naturally think it to be the municipal, which differs from the parliamentary by its inclusion of women, while it includes the humble occupiers of premises valued at less than £4 who are excluded from the school-board electorate. But in practical effect the school-board franchise is the broadest of all, and this because it does not require that the rates shall have been actually paid. Taxes are levied upon all householders; and for the exercise of the municipal and parliamentary franchises it is requisite that those taxes shall have been paid at a date some months prior to the elections. The £4 clause in the school law disfranchises almost nobody who would think of caring to vote, while the provision that municipal and parliamentary voters must have paid their rates before a certain "qualifying date" so operates as to keep more than twenty-five thousand householders off the registration roll which it is the business of the Glasgow assessor and his canvassers to make up every year. This is a very important fact. The Glasgow parliamentary voters' roll now includes 75,000 names. The municipal roll simply adds the names of 14,750 women, making a total municipal registration of 89,750. The total number of houses enrolled for voting is 121,700; so that the discrepancy between the possible and the actual enrolment in Glasgow is very wide. The slums evade the tax collector and sacrifice the franchise. Household enfranchisement in the Scotch towns therefore means, in reality, rate-payers' enfranchisement. It is a significant thing that the whole body of men who are ignorant, vicious and irresponsible is practically outside the pale of politics in Glasgow and Edinburgh, Dundee and Aberdeen.

If the stranger happens to have examined municipal institutions in Glasgow before prosecuting his inquiries in the large English towns, supposing also that he has preferred to observe and investigate things on the ground before looking closely into the distinctions of the law, he will probably go from Scot-

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land to Liverpool, Manchester or Birmingham expecting to find that there also the rate-paying qualification, which he knows is existent there as well as in the North, will operate to diminish the burgess roll. In Glasgow it makes the roll 25 or 30 per cent smaller than the number of householders, and it has the same effect in Edinburgh. But in point of fact it has no such effect in the English towns, for a reason that is very readily explained. In Scotland, rates are divided between owner and occupier and collected directly and separately from each. Collection from the poorer sort of occupiers in the great towns is a very difficult matter. In England the agitation for such division of rates is as yet unsuccessful, and the entire burden falls upon the occupier. But a number of years ago the extreme difficulty of collecting from the occupants of small tenements was met by the adoption of a plan of composition with the landlords, by which they advance the rates on all tenements of less than £10 value, whether actually occupied or not, and get a discount of 30 per cent. All the householders who are thus arranged for, consequently find their names upon the parliamentary and municipal rolls; and the defection among the better class of tenants, occupying houses worth £10 or more, is so small that the rate-paying qualification cannot be said to affect the burgess roll importantly. I find in Manchester proper about 73,000 inhabited houses, and the burgess roll contains about 62,000 names. In the English towns the burgess roll seems to fall only about 10 per cent short of the number of houses, while in the Scotch towns it falls 25 per cent short.

In comparing the English franchise with the American, the practical exclusion of unmarried men is to be taken into account as an item of great importance. Here again the practical working of the British system is not to be inferred from the law. The so-called lodgers' franchise (parliamentary) gives a vote to men who occupy apartments worth £10 a year. The number of young men in any American city who occupy lodgings worth more than $4 a month would constitute a very considerable element of the voting strength, and I should not hesitate to estimate it as high as 15 per cent. Young men of this class are

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not, perhaps, so numerous in the English towns, but that they form a very large element of the population is obvious. One may well be surprised therefore at the net results of the lodgers' franchise. The parliamentary borough of Birmingham, out of a registration of 72,000, has only about 400 "lodgers" on the list, where one might have expected to find ten or twenty times as many. And Glasgow, with scores of thousands of unmarried men above the voting age, has only about one thousand of them on the voting roll as "lodgers." In Scotland the qualified lodgers have also the municipal franchise. In England they have only the parliamentary. But in both countries they are obliged to appear and make good their claim at each annual revision of the registration lists; and this may mean a delay of hours in the court of a "revising barrister." The other classes of voters are put on and kept on the lists in spite of themselves in practice if not in law. But the lodger is in effect disfranchised by the burdensome conditions that attach to his registration.

The municipal franchise has remained substantially unchanged since the "household" extension of 1868, the recently granted "service" franchise affecting the parliamentary enrolment only. But this, like the lodgers' list, turns out a very insignificant thing in practice, adding only a few hundreds of names to the parliamentary enrolment of a borough of half a million people.

There is another class of municipal voters in the English towns of which account should be made. It is the class of men who are occupiers of small shops worth less than £10 a year, and who are not qualified to vote as householders. The occupation of shops or business premises worth £10 entitles to the parliamentary vote, while for municipal purposes this limit is wholly removed. In Birmingham there are large numbers of mechanics who occupy diminutive shops or work-stalls to which power is distributed from a common centre, and who pay very trifling rents. Several thousand of them are on the municipal or "burgess" roll. Not to prolong my discussion of these exasperating distinctions, it may simply be stated that the municipal enrolment in English towns will average about twenty per cent greater than the parliamentary, and that the difference is

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accounted for chiefly by the municipal enfranchisement of women who are rate-payers.

To make comparison again with the American electorate, which includes all male citizens of legal age, the English municipal electorate excludes in practice nearly all the unmarried men who are not "occupiers," and nearly all the serving class. Furthermore, in judging of the political effects of the extension of the franchise to the humblest householders it must be borne in mind that the exploitation of the votes of the ignorant, vicious and indifferent in English cities by demagogues or party agents is so extremely difficult that it does not count for anything at all in election results. The extraordinarily severe laws against bribery, direct and indirect, apply to municipal elections; and it is next to impossible to get a British voter to the polls who does not contemplate the contest with some glimmering of interest and intelligence. In Scotch towns the slums do not vote because they evade the rate-collector and are not registered. In English towns, although registered by canvassers, they do not care about voting and are a neglected field so far as political missionary work goes. The organized workingmen vote, of course; and they seem to vote with more intelligent and distinct purpose than any other class in the community. Of the women rate-payers nothing is to be said except that their voting is variable, sometimes being high in proportion to their numbers and sometimes low, depending upon their interest in particular candidates or special issues. Obviously, the franchise needs simplification.

III. *Nominations and Elections.*

The largest English towns are as a rule divided into sixteen wards, each of which sends three members to the council for terms of three years, one councillor being elected in each ward every year. The council also contains sixteen aldermen who sit for terms of six years and who are chosen by the council itself. The mayor is elected by the council. The "burgesses" or registered citizens have therefore no ordinary direct responsibility in municipal government except for the choice of one councillor in each ward on the first of November of every year.

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The English methods of nomination and balloting as applied to parliamentary elections have attracted no little attention in the United States; but the working of these methods,[1] and their advantages in municipal affairs have not become so familiar to American readers. Let me first state the essential features of the nominating system. At least nine days before the election, the town clerk causes notices to be conspicuously published, explaining what vacancies are to occur and how the nominations are to be made. The names of candidates must be left at the clerk's office, inscribed upon official blanks, a week before the election. Accompanying each name must be the signature of a "proposer," a "seconder" and eight other citizens. Only such persons as have been nominated in this way may be voted for. Nominations being all in, the list is at once printed and conspicuously bulletined. The announcement contains the full names, residences (street and number) and occupations of the nominees, and the names of the proposer and seconder in each case. If only one nomination has been made in any ward, the nomination is itself the election and the polls will not be opened in that ward. This is a good and sensible system upon its face; but experience alone can tell us how any piece of political machinery will actually work. Ought this system to be productive of many nominations or of few? The most natural inference would seem to be that its adoption would increase the number of candidates, since any ten men may secure for an eleventh man, without expense, the official announcement of candidacy and the placing of the candidate's name upon the ballot papers.

But this inference is not justified by the facts. In the last municipal elections, of November 1, 1888, although party issues were introduced to a quite unprecedented extent and the number of ward contests was materially increased by the unwonted employment of the occasion for a testing of strength on the Home-rule question, it was nevertheless true that contests were confined to a minority of the wards, taking all the towns together. This must seem to the American observer a remark-

[1] *Cf.* Goadby, The Ballot in England, POLITICAL SCIENCE QUARTERLY, III, 4 (December, 1888), pp. 664–676.

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able state of things. It means that, in a majority of the wards, public opinion had in advance agreed so decisively upon a particular man that nobody was nominated against him and the entire expense and distraction of a contest at the polls was thus obviated. Closer inquiry will reveal the fact that by far the greater number of these cases have to do with the re-election of men already in the council. I might name a considerable list of towns where, in spite of the exceptionally acute condition of party feeling throughout the country, there was not a single ward contest in this last election, all the new members of the councils obtaining their seats by virtue of unopposed nominations. For examples, there were no polls opened at Rochester, Windsor, Colchester, Lincoln, Litchfield, Dorchester, Monmouth, Newark, Taunton, Burton-on-Trent, Reading, Dartmouth, Halifax, Boston, and other places. In Cambridge, Salisbury, Derby, Worcester, Great Yarmouth, Plymouth, Cardiff, Newcastle-on-Tyne, Wrexham, Carnarvon, and several other places, there were contests in only one ward. Except for contests in two wards each, all nominations were equivalent to elections in Bristol, Oxford, Winchester, Coventry, Sunderland, Stockton-on-Tees, Weymouth, Durham, and several other towns. When it is remembered that Bristol is an active commercial city of a quarter-million population, it is decidedly interesting to learn that it can choose councillors from fourteen out of sixteen wards by unanimous consent and without the work and cost of holding an election, while its stirring and growing rival, Cardiff, escapes with only one contested ward.

Even in the eighteen great wards of Manchester there were only three contests, those turning upon political issues chiefly, while in Liverpool there were but six contests. The party men pretended to fight the Liverpool contests upon strictly political lines; but the situation seems to have been in the hands of the "rate-payers association," composed of men who advocate municipal economy and ignore party lines in local affairs.

The most numerous and exciting contests occurred in the great inland towns of the Midlands and the North that have long been the home of advanced liberalism and where the Lib-

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erals have heretofore maintained a large preponderance of strength in the municipal councils. It is in these towns that the split in the Liberal party is most keenly felt; and the municipal elections of last November were made a series of battles between the Liberals and the Conservatives as re-enforced by the Dissentients. Birmingham was the chief point of interest, and contests were waged in nine of the sixteen wards. In eight of the nine wards the retiring members were candidates for re-election, and in six of the eight cases they were successful. Thus, although in Birmingham the municipal election of last November was probably unprecedented for the number and severity of its contests, the new council contains only three new men. Thirteen out of sixteen retiring councillors were re-elected — seven of them without opposition. In Leeds there were five contests, the town having sixteen wards, and the issues in every case were political. Curiously enough, a sixth contest was averted by the oversight of the Liberals, who failed to file a nomination paper for their expected candidate, the retiring member. The result of this inadvertence was that a Conservative stepped into the place without a contest. The Bradford politicians contested twelve of fifteen wards, while Nottingham had nine contests and Sheffield six. It is an unusual year when Glasgow or Edinburgh has more than four or five ward contests; and there, as in all the British towns, a very considerable proportion of the contests occur when retiring councillors decline to stand for re-election.

As regards nominations by third parties or special interests, one might well expect to find them more numerous than they are. In only one of the nine contested Birmingham wards at the recent election were there more than two nominations. In the one ward there were four, the Socialists having a candidate, and a fourth man "running" independently. In one of the Leeds wards there were three candidates, as was also the case in one of the Manchester wards. At the risk of being tedious, I give all these details for the light they throw upon the actual use that is made of the electoral machinery in the English towns.

The preliminary selection of party candidates usually rests

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with ward committees, candidature being accepted and ratified by the voters in open ward meetings where municipal questions are discussed. The American primary election or party caucus system is quite unknown, and in ordinary cases the distinctions of party are not strenuously emphasized. The councillor from a decidedly liberal ward is likely to be a Liberal; but he is in most cases as entirely acceptable, so far as municipal matters are concerned, to the Conservatives as to the Liberals, and he will never in any case be opposed by a nominee of the other party who is brought forward for the mere purpose of maintaining party organization in the ward. An Englishman is not often willing to be put up for a place merely to be sacrificed. The extension of the franchise is resulting in more elaborate and more democratic forms of party organization in England; and it is not unlikely that the future may see party lines more closely drawn in municipal elections than they have been up to the present time — a prospect not by any means welcome.

The English voting machinery is perhaps sufficiently well known. The overseers of the poor in the several parishes, who are the rating officers, are also the registration authorities. On the 1st of August of each year, copies of the new list of electors are posted upon the doors of all churches and chapels and public buildings, and they must be kept exposed for a period including two Sundays. The party agents are particularly minute in their scrutiny of the lists. Before the 20th of August, all claims and objections must be filed with the parish authorities, who make out a list of them and post copies of it in the same manner as the original lists and for the same length of time. The claims and objections are then submitted to a revising barrister appointed by the High Court, who sits in open court and passes upon them one by one. The list thus revised is ready for the November election.

The voter at the polls receives a ticket upon which are printed the names of the candidates. The ticket is torn from a book which retains a counterfoil or stub upon which is written the registration number of the person voting.[1]

[1] For facsimile of ticket, see POLITICAL SCIENCE QUARTERLY, III, 4 (December, 1888), p. 668.

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The voter is instructed to take the ticket into an alcove, where he will find pencils, and to mark a cross in the blank space at the right, opposite the name of the man for whom he desires to vote. He folds his ticket in such a manner as to exhibit the official mark on the back, when he drops it into the box in the presence of the election officers. The superiority of some such balloting system as this over the ordinary American plan is too obvious to require discussion.

IV. *Councillors, Aldermen and Mayors.*

To be a member of an English town council is to hold a position of honor — a position which no man affects to despise. As a corollary observation, it is also to be remarked that the councils are almost universally in high repute. Yet if the stranger asks whether or not the councillors come from the best classes he will generally be answered in the negative, his informer having in mind the English distinctions which place tradesmen and manufacturers below the aristocracy of land-owners. The councillors, as a rule, are representatives of the best elements of business life. They are men of intelligence and character and practical conversance with affairs. The idea of rotation in office seems utterly foreign to the British mind except as regards the office of mayor. And that office is one of dignity and honor rather than of responsibility. The aldermen are almost invariably chosen from the membership of the council, and the mayor is a man who has served his town with ability and zeal as councillor and alderman. No salaries attach to these offices, and by the common consent of the community none but men of worth, who have made their way to a good standing among their neighbors, are regarded as eligible for the council. This, of course, is a favorable view, against which numerous individual facts might be arrayed. But it seems to the writer a just view. The whole system is favorable to the selection and retention of capable and honest men. Once seated in the council, faithful and efficient service may reasonably be counted upon to make a man's place secure from term to term for as long as he is willing to serve, and he has before him the pros-

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pect of aldermanic honors and of his crowning year of dignity in the mayor's robes.

It is to be remembered, moreover, that while the honors of public position are perhaps nowhere so highly esteemed as in Great Britain, the town councillorships are the most important places in the gift of the people except the parliamentary seats. The difference between England and the United States in this respect is so marked and is a matter of so much practical consequence that I am somewhat surprised that it should so generally have escaped attention. In an American state, the legislature affords places for about one hundred and fifty ambitious citizens. Then the elected executive officers of the state are a considerable group, — governor, lieutenant-governor, secretary of state, auditor, treasurer, superintendent of education, commissioners of railways, labor statisticians, and still others in some of the commonwealths, — and there is a further group of appointive offices open to politicians of the same rank as those who go to the legislature and fill the elective offices. The American counties, since they also include the towns in their jurisdiction, — as county governments ordinarily do not in England, — offer another group of elective positions to the same classes of place-seekers ; for they all have their boards of commissioners and their sheriffs, treasurers, recorders, clerks and auditors to be elected. Finally, the city itself has its elective places, the mayoralty included, which are independent of the council. With all these other positions of higher rank in the common estimation, the town council competes for good men at a great disadvantage. But no corresponding places exist in England; and the capable citizen with a taste for affairs may be elected an overseer of the poor for his parish, a member of his town school board or, last and greatest, a member of the municipal council. Surely this condition of things affords one of the reasons why municipal government has more dignity, and attracts better men on the average, in England than in America.

Another reason may, perhaps, be found in the fact that the English municipalities within the past generation have had problems of a more serious and pressing nature to deal with than

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the less crowded American cities have had, while they have also had a larger number of men with leisure and trained ability to bestow upon those problems. Again, there is much less in the English system of municipal organization to tempt unworthy men into the council for purpose of gain. There are no salaries to receive, and very remote chances of profit through contracts or jobbery of any sort. A high proportion of the English councillors will be found to be men who have wholly or partly retired from the activities of successful business life, who are glad to devote their time to the affairs of their communities and whose motives are as honorable as their services are intelligent and efficient.

To show more clearly what class of men serve in the councils, I may be permitted to give the occupations of the men whom the Manchester wards honored at the last election, as I copied them in my note-book from the town-hall bulletins. Manchester has eighteen wards, one of which has double representation. The sixteen men who were chosen without opposition were of the following vocations: (1) wholesale druggist, (2) printer, (3) carrier, (4) grocer, (5) accountant, (6) contractor, (7) analytical chemist, (8) pork butcher, (9) gentleman, (10) hosier and glover, (11) gentleman, (12) manufacturer, (13) carriage builder, (14) manufacturing chemist, (15) provision merchant, (16) manufacturer. The "printer" would presumably be, not a journeyman, but the proprietor of printing works. In the three contested wards, the candidates were (1) an "architect and surveyor" and a "chemist and druggist," (2) a "hardware merchant" and a "gentleman," and (3) a "smith and wheelwright," a "clerk" and a "fire-brick manufacturer."

Of Manchester's nineteen aldermen not one attained the superior rank without having served several terms as an ordinary councillor. One of the nineteen has served continuously for forty-five years, and has had the aldermanic rank for thirty-five. Another has served for forty-two years, another for thirty-seven, another for thirty-two, another for twenty-seven, seven more for from twenty to twenty-four years, and all the rest for from thirteen to eighteen years. The ordinary councillors are less

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venerable, and fully half of them have come into the office since 1884, while only ten have seen ten years or more of continuous service. The whole body, aldermen and councillors, includes seventy-six men, and it is an assembly of high average character and qualifications.

In a few towns municipal contests are beginning to turn upon the temperance question; and in others workingmen candidates are successful. But, as yet, the great majority of councillors are chosen for general efficiency and not for their advocacy of any particular movement or reform.

The act of 1835, which specified that the aldermen should constitute one-fourth of the whole council, and that they should be elected by the council for terms of six years, made any burgess eligible for the position. It seems to have been thought that the councillors would go outside their own numbers, at least very frequently, to choose distinguished and especially qualified fellow townsmen for aldermen on the 9th of November of every third year, when half the aldermanic places become vacant. But that expectation was not realized. It has come to be almost the universal custom to promote to the rank of aldermen, when vacancies occur, the councillors whose service has been longest and most efficient. An interesting discussion in the House of Commons, which I happened to hear, on the question of aldermen in the new county councils, brought to light some instances of the appointment of municipal aldermen from outside the council; but the general testimony of members from the boroughs who had especial knowledge of municipal affairs was to the effect that they had never known any such appointments. The Liberals argued strongly against the aldermanic rank for the county councils, principally on the ground that it might enable a majority greatly to increase and perpetuate itself. In some of the large towns, it is well known that the preponderating party in the council is organized for the purpose of choosing aldermen and mayor, although it does not follow that the selections are upon strictly partisan lines. While the aldermanic rank has not been positively objectionable in practice, it has none of the advantages that were anticipated for it, and is

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as needless as a fifth wheel. If the system were to be constructed anew in the light of experience, it is hardly probable that provision would be made for any other class of councillors than the directly chosen representatives of the wards.

The great consolidation act of 1882 did somewhat more than revise and "codify" the existing statutes. It introduced changes here and there, the most important of which, perhaps, is the addition of the words italicized in the clause which declares that the mayor shall be elected "from the aldermen or councillors, *or persons qualified to be such.*" In the old days of close corporations the mayor was chosen from the aldermanic rank. The reform act of 1835 limited the range of selection to the membership of the body of aldermen and councillors, by whom he was to be designated. The act of 1882 gave the council permission to elect any qualified citizen. Since that date there may have been some deviations from the time-honored custom of selecting the mayor from the senior aldermen; but at least they have been rare. Aldermanic vacancies are filled on the 9th of November immediately following the election of mayor, and outgoing aldermen are eligible for the mayoralty; but the cases where an outgoing alderman is elected as mayor without being at the same time re-elected as alderman, are very exceptional. In any case, the mayor would by virtue of his office be the presiding officer of the council. He votes by virtue of his membership, and if necessary he gives a second or casting vote as presiding officer. He is a justice of the peace during his incumbency and for the year following it. He is eligible for re-election indefinitely, and there are several smaller towns which have made the same man mayor from six to ten times. Birmingham in fifty years has had forty-one different mayors, and only six of them have been honored with more than one term, a third term as an extraordinary honor having been accorded Sir John Ratcliff (1856–8), Mr. Joseph Chamberlain (1873–5) and Mr. T. Martineau (1884–6). Manchester on the other hand has had only twenty-seven different mayors in fifty years, and all but eight of them have served for more than one term. Of the two hundred and eighty-four municipal corporations of Eng-

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land and Wales, eighty re-elected their mayors on November 9, 1888, to serve until November 9, 1889. But these re-elections were almost invariably in the smaller places, Bristol being the only one of the large towns which continued the mayor in his office.

Generally speaking, the mayoralty is conferred as an honor and it is regarded as the fair thing to keep passing it along. The mayor is not elected so much to render new public service as to be rewarded for past service. The office confers dignity and influence and a sort of recognized leadership in municipal affairs that may enable the incumbent to accomplish a great deal. But it confers no important administrative responsibilities. During his year of office the mayor will be expected to devote much of his time to the public welfare. He will be allowed such remuneration as the council may choose to grant for the maintenance of his official dignity. He is the presiding officer of the council and has certain routine powers and duties that would naturally fall to a presiding officer. He may at any time call a meeting of the council, in a manner prescribed by law, and so may any five members of the council. He is a returning officer and has various duties in connection with the holding of elections, but these are merely formal matters. His commission as the justice of the peace is intended to enhance his dignity and authority rather than to give him added work or responsibility. He has no appointive power, except as regards the designation of polling officers or some such occasional and incidental matters. Nor has he the right of nomination to any positions whatever in the municipal service. He has no veto upon ordinances or by-laws of the council, and no more power than any councillor except that he may, in case of a tie, give a determining vote. He is, then, to be regarded simply as the presiding officer of the council, with special dignities attached to his office. He serves on council committees and usually has a chairmanship or two. When his term in the chair is over, he usually goes right on with his duties as alderman, probably continuing at the head of the committee for the work of which he is best qualified. Thus there are now at least half

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a dozen ex-mayors in the aldermanic rank of the Manchester council; and all the mayors that Birmingham has had for twenty years remain in the town council, with four exceptions, three of which are accounted for by the promotion of Messrs. J. and R. Chamberlain and Mr. Jesse Collings to seats in Parliament, and over against these exceptions are to be placed two ex-mayors of earlier dates who still serve as aldermen. The ferreting out of such facts might involve labor more curious than profitable but for the light thus thrown upon the continuity of English municipal administration and the amount of ripe experience it is able to command.

V. *The Executive Organization.*

The foregoing description of the English mayor will have been very insufficient if it has failed to show how entirely different an official he is from the American mayor. Except as regards what we may call the "dignity business," the two officials are not even analogous. When essentials are considered, the American functionary who corresponds to the English mayor is the president or chairman of the common council. And even that comparatively unpretentious office has greater power than the English mayor, for in many if not in all of the American cities he makes up the council committees according to his own fancy, and thus exercises a far-reaching influence upon the work of administration in the various departments; while the English law obliges the council itself to appoint its own committees. This is a matter of no trivial importance, as anybody at all conversant with municipal affairs will instantly understand.

The American mayor is no part of the council or its organization. He is elected directly by the people. He is an independent, co-ordinate authority. He bears somewhat the same relation to the council that the President of the United States sustains towards Congress or the governor of a state towards the legislature. The analogy falls short, however, in the very important practical fact that the work of Congress and the state legislature is principally that of legislation, while the work of

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municipal councils is of necessity principally that of administration. The theoretical independence and distinct executive responsibility of the President and the governors is extremely difficult to maintain in practice, for the line between legislative and administrative work and authority is not at all distinct. Still more difficult is it in practice to apportion duties and responsibilities between an American mayor and the common council in such a way as to secure real efficiency on both sides. It is not easy to see where in the nature of things the proper functions of one authority end and those of the other begin. In the dispersion of authority, definite responsibility too easily disappears. The mayor's veto upon ordinances passed by the council divides responsibility for the by-laws. The council's power of rejecting appointees nominated by the mayor very considerably diminishes his responsibility for the proper exercise of the appointing power. Where the control of the police is not taken out of the hands of both these co-ordinate authorities and vested by the state in a separate board of commissioners, the police administration is likely again and again to be a bone of contention between the mayor and the council. The embarrassments and opportunities growing out of this divided responsibility are among the principal causes of the comparative failure of city government in the United States. Many earnest and intelligent municipal reformers, especially in New York and the Eastern states, have advocated the plan of greatly increasing the authority of the mayor, so that he may be held more definitely responsible for the administration of the various executive departments. It is the plan of a periodically elective dictatorship. As a remedy for the evils that grow out of interferences by the state and the farming out of certain departments such as parks or water-supply to special boards or commissions not responsible to the mayor or the council or the people, and further as a temporary measure of defence against untrustworthy and corrupt councils, this somewhat heroic plan of making the mayor a dictator or, to use the Cromwellian euphemism, "a protector," seems to have a great deal in its favor. But it is unrepublican and it does not at all solve the difficult problem of

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harmonizing the authority of the mayor and the authority of the council. The relation between the two cannot at best be other than that of a shifting, unprofitable and illogical compromise.

It would seem a little strange that the one school of reformers should not have been opposed by another which would advocate the concentration of authority and responsibility in the council. Logically, the mayor must eventually swallow the council or the council must swallow the mayor, if political forces are to be accorded some degree of natural play; and the one-man power is on the decline everywhere in this age. Municipal governments, elsewhere than in the United States, after having constituted a ruling body do not erect a separate one-man power and give it the means to obstruct the ruling, administrative body and to diminish its scope and responsibility. The mayor elsewhere is an integral part of the council. English, Scotch and Irish municipal government is simply government by a group of men who are to be regarded as a grand committee of the corporation — the corporation consisting of the whole body of burgesses or qualified citizens. In Glasgow it is a committee of fifty; in Edinburgh, of forty-one; in Manchester, of seventy-six; in Birmingham, Liverpool and most of the large English towns, of sixty-four; in Dublin, of sixty; in Belfast, of forty; and in the other incorporated towns of the United Kingdom it varies from twelve to sixty-four according to their size. So far as these bodies have authority to pass by-laws at all, their authority is complete, and nobody obtrudes a veto. They appoint and remove all officials. They have entire charge of municipal administration, distributing the work of departmental management and supervision to standing committees of their own number which they organize and constitute as they please. If such a local government cannot be trusted, the fault is with popular institutions. It is quite certain to be as good a government as the people concerned deserve to have. The location of responsibility is perfectly definite. When the Glasgow city improvement scheme became unpopular with the voters because it was proving more expensive than its projectors had promised, the chairman of the committee was retired by his constituents

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at the end of his term. The tax-payers hold every member of council responsible for his votes. The system is as simple, logical and effective as the American system is complicated and incompatible with harmonious and responsible administration. City government in America defeats its own ends by its "checks and balances," its partitions of duty and responsibility and its grand opportunities for the game of hide-and-seek. Infinitely superior is the English system, by which the people give the entire management of their affairs to a big committee of their own number, which they renew from time to time.

VI. *Appointments and Appointive Officers.*

The most important official in an English municipal corporation is the town clerk. He has a large salary and is expected to hold his office for life. He is the council's recording officer, the custodian of records, deeds and charters, the council's legal adviser, the medium through which communication is had with the local government board, the publisher of registration lists and election announcements, the draughtsman of bills which the council desires Parliament to pass, the general secretary of the borough and a high authority on points of municipal law, precedent and history. The only other officer which the municipal corporations act requires all town councils to appoint, is a treasurer. The clerk and the treasurer must be different persons and must not be members of the council. As for the rest, the law declares that

> the council shall from time to time appoint such other officers as have been usually appointed in the borough, or as the council think necessary, and may at any time discontinue the appointment of any officer appearing to them not necessary to be re-appointed.

There must be three auditors, one appointed from the council by the mayor and the other two elected by the burgesses; but they are not regarded as city officers in the ordinary sense, being merely called in twice a year to examine the treasurer's accounts and vouchers.

But while the organization of the working departments and

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the creation of municipal offices is left to the discretion of the different councils, there is a general similarity among the towns. It is the almost uniform practice to appoint as permanent chiefs or superintendents of departments the most thoroughly qualified men who can be secured, and to hold them responsible to the council through the committees for the ordinary operation of their respective branches of the municipal service. These towns have, as a rule, undertaken so extensive a range of public activities that the number of their employees is great. But the average of efficiency is, also, very high. At the head of the police, fire, water, gas, sanitary, park, engineering and other departments are to be found men of special fitness and training, who are selected for administrative ability as well as for expert knowledge, and whose security of tenure, for so long as they deserve it, adds to their faithfulness and usefulness. Nothing in British city government will be more likely to impress the American who observes it closely than its indebtedness for a large part of its success to the superiority of the appointive heads of departments.

It is everywhere earnestly claimed in England and Scotland that party considerations weigh nothing in appointments, and that regard is had to efficiency alone. And the claim on the whole seems to be justified. In American cities it is generally thought necessary to choose municipal servants from local applicants or candidates; but there is no such limitation in England. It is usual to advertise a vacancy; and the committee most directly concerned make their choice from the applicants and then recommend to the full council for action. If a chief of police is wanted for a town even of moderate size, there are likely to be applicants by the score or hundred from all parts of the United Kingdom. Offices are held so permanently that promotion is not very rapid, and a vacancy at the head of a department will therefore be sought by the men of lower rank in the corresponding departments of other towns. And clear merit usually wins. There are no competitive examinations either for the higher or the lower walks of the municipal service in England or in Scotland, other means of ascertaining men's qualifications being preferred.

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In filling up the ranks, — selection being left in a very considerable measure to the responsible departmental head, — the English towns have of course a great advantage over those of America. Good men are so much more numerous than good positions, and the competitive struggle for existence is so terribly severe, that a place in the public service, even though humble and poorly paid, attracts men of a class who in America could not be induced to give up the chances of success in business or professional life for a small clerkship or inspectorship in a municipal department.

Englishmen are not indifferent about their municipal matters, and they know very well how to grumble; and it is therefore a significant thing that one rarely encounters a charge of favoritism or unworthy use of patronage in municipal appointments. The number of unsuccessful applicants is so large that, if frequent abuses of the appointive power occurred, there would be no lack of persons to complain and to make the facts known. It would be easy to give instances of the appointment to responsible places of men who applied as strangers from distant towns, without acquaintance or other influence than their testimonials and proofs of fitness and of good work already done.

VII. *Monopolies of Local Service.*

There are at present, in all large towns and cities, three important local services that are monopolistic in their nature. The number is likely to increase in the future, but just now only three are of the first practical importance. These are the water supply, the gas supply, and street-railway transportation. In these undertakings there can never be any competition except the indirect kind, as where illuminating oils compete with gas or omnibus lines with street cars. In the nature of things one system of gas mains, or water mains, or street-car lines must supply a given area, whether the whole or some part of a city. In some English as in some American towns, these three services are all in the hands of private companies, which have obtained the use of the public streets. But in most English as in most

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American towns the water supply has become "municipalized" within a comparatively recent time. Only two or three American municipal corporations have as yet undertaken to supply gas; but in the United Kingdom there were in 1887 as many as 166 local authorities that owned gas works and supplied their towns and vicinities, the number having increased since then and including nearly all the large towns. So far as I am aware, no American municipal corporation is the owner of a street railway; while nearly a score of British corporations, including several of the most important ones, are now in possession of all the street-railway lines within their boundaries. Each of these services as carried on in the British towns deserves some comment.

The arguments for a public water supply are too generally accepted to require any statement here; but they may perhaps be illustrated by some items of English experience. Health and comfort require that the water supply should be wholesome in quality, abundant in quantity and very cheap in price; while protection against fire requires its general distribution. The greatest benefits derived from a superior water supply are of that indirect kind which do not enrich private companies or remunerate them for extra outlays of capital, while abundantly justifying large outlays from the public treasury. Glasgow was supplied by private companies until 1860. They pumped the water from the Clyde, and it was of very bad quality and insufficient amount. The authorities bought out the old companies and executed the magnificent project of bringing their water by aqueduct from a lake in the Highlands. No private company would have incurred the expense. Yet the city has been paid already, in various ways. The elevation of the reservoirs is so great that the ordinary pressure in the mains suffices for the extinguishment of the vast majority of fires, and the saving thus effected on behalf of the fire department is enough to pay the interest on the cost of the water works; but while this is a direct money saving to the corporation, it could not have benefited a private company. The softness of the water — its remarkable freedom from mineral ingredients — is such that its

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use effects for the people a saving in the two items of soap and tea equal every year to the interest upon the cost of the works. This common benefit justifies the common outlay; but it could not have been turned to advantage by a private company. The purity of the Loch Katrine water keeps in Glasgow various lines of manufacturing, such as paper making and certain textile industries, which would otherwise have to go to country districts. And this great benefit could only in small part have been made a source of income by a private water company. Manchester's sources of supply having become insufficient, the corporation has acquired Thirlmere in the "Lake District" and is about to introduce an ample new supply of the best character. Such undertakings involve too much besides commercial considerations to be entrusted to private companies. The plan that would benefit the consumers most in the long run would be least likely to seem a promising investment for a commercial company.

Gas and water were taken over at the same time by many of the English municipal corporations. The arguments in favor of the public control of the gas supply are not so strong as those that are urged in the case of water. The gas supply rests upon a more strictly commercial basis. But if a city wants excuses for going into the gas business they are numerous enough. It is itself a large consumer of gas in street illumination and public buildings. The distribution of gas requires the use of the public streets for pipes; and a private company's occupancy of any part of the streets is objectionable. Gas is necessarily a monopoly product, and its sale at somewhere near cost can only be expected of the public authorities. In many incidental ways the authorities are at an advantage in the business. Some of the arguments that would apply in America have added force in England. For climatic reasons there must of necessity be vastly more use made there of artificial light. Gas is much more universally used by all classes in England than in America, where oils are used. An abundant supply of a cheap illuminant is a social desideratum of the highest consequence in a country where during the winter the daylight does not suffice for indoor occu-

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pations more, on the average, than six hours in the twenty-four. The boon of cheap gas to the poor in tenement houses, for instance, is inestimable. It is one of the foremost agencies of civilization. An abundant use of artificial light in the gloomy towns of England and Scotland is, moreover, a potent safeguard against crime. "Each light counts for a constable," remarked a British chief of police with whom I was discussing this point. It was, however, quite largely from revenue considerations that the English and Scotch towns assumed the gas business. They believed that they could not only cheapen gas to the consumers, but also earn net profits and thus reduce the rates.

This is a subject that would bear a more detailed discussion than my space will permit. I can only say that it is almost the universal testimony in Great Britain that the municipal gas enterprises are a brilliant success. They have steadily reduced the selling price and largely increased the consumption. Their management has been as efficient and economical as that of the private companies. They have been able, while selling gas at a low price, to pay expenses and interest, accumulate sinking funds, make good all current depreciations in plant and pay net profits into the municipal treasuries. The price in the large towns is generally from 50 to 75 cents per 100 feet. The net profits are in most places kept low by reductions of price whenever they tend to become abundant. Taking all the corporation gas works together, their net profits will average about five or six cents per 1000 feet. When ultimately the interest and sinking-fund charges become little or nothing, the corporations will have very productive properties in their gas works.

Comparing the returns from private companies with those from local authorities, it appears that the latter are now making one-third of all the gas consumed in the British islands, and are steadily increasing their proportion. But for London, the enormous gas consumption of whose five millions of people is supplied by private companies, the preponderance would be nearly or quite in favor of the public authorities. As matters stand, it is very significant that the public works, while supplying only one-third of the total amount of gas, are reaching nearly

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as many consumers as the private companies reach, and are supplying two-thirds as many public lamps. This means that the poor are users of corporation gas to nearly twice the extent that they use the private gas, and that the streets are much more liberally illumined in the towns which have the public supply. Glasgow has been a manufacturer of gas since 1869 and has in twenty years reduced the price nearly one-half and increased the sales by 140 per cent, while the population has increased only 20 per cent. One of the large municipal undertakings of Birmingham with which Mr. Chamberlain's name is associated was the purchase of the gas works in 1874 — a step that has been abundantly justified. Edinburgh has just now followed the example of Glasgow; and although the old companies were bought out at large figures, the bargain will unquestionably be advantageous. Manchester and its other self Salford are both very prosperous in their gas undertakings. And Leeds, Bradford, Nottingham, Belfast, Bolton, York, Leicester, Aberdeen and Dundee are among the other large places which are proprietors of gas works. Liverpool, Dublin, Sheffield, Bristol and Hull are still supplied by private companies.

When I state the fact that 233 miles of street railways have been constructed and are owned by local authorities, according to the returns for 1887, out of a total mileage for the island of Great Britain of 799, I enter upon a brief chapter of English experience of which American municipal authorities have remained strangely ignorant. Neither Liverpool, Glasgow, Manchester, Salford, Birmingham nor Sheffield permits any private company to lay rails in the streets. These and a number of smaller places own the "tram lines" as they own the paving, and lease the lines to private companies which operate them according to the terms of contracts that differ with the different cities. A detailed account of the English street railways must be reserved for a separate article. But it may be said here, in general, that the leases are for terms of about twenty years and that they require the operating companies to pay (1) full interest upon the cost of the lines, (2) a percentage for a renewal and repair fund, (3) a sufficient annual amount for sinking fund to

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repay the total capital outlay within the period of the lease and (4) a moderate mileage rental. This is the Glasgow plan, entered upon in 1873. The Birmingham arrangement, very recently made, is similar. Manchester covers all the items in a gross rental charge, and Salford exacts a yearly tribute of ten per cent upon the cost of the lines. In some cases, if not in all, the contracts guard very carefully the interests of the public in their requirements of good service and low fares. The lines are of the best construction and are built, as all public work is done in Great Britain, by contractors under the eye of "borough surveyors," or city engineers, as Americans would term them.

Several of these cities look forward to large revenues in the future from the rentals of their tram lines. In other cities it is expected that upon the expiration of the charters of private companies now owning the lines the corporation authorities will take possession. The mileage of corporation lines would be much greater than it is, but for the fact that the suburbs of English cities as a rule lie beyond the corporate limits and that the companies which are lessees of tram lines inside the limits are owners of the suburban extensions. The English municipalities have been wiser than the American in perceiving the value of street-railway privileges as productive assets. Very tardily, the municipal authorities of a few of the cities of the United States are waking up to the impropriety of giving away street franchises. The English plan of owning the tracks is one that should recommend itself to the American cities. In making contracts with operating companies the best plan would seem to be that the companies should pay fixed charges (interest, sinking fund and a renewal fund) plus a percentage of the earnings, or at least with some "sliding scale" factor in the arrangement.

VIII. *Sanitation and Public Improvements.*

The most important and distinctive work of the English municipalities during the past two decades has been done at the demand and with the guidance of sanitary science. To describe it even in a general way would require a volume. One approach to its examination might be found in the long series

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of acts relating to the public health, and dealing with such matters as inspection of food; inspection of premises for unwholesome conditions technically called "nuisances"; inspection for discovery and isolation of contagious diseases; inspection of common lodging-houses; provision of epidemic hospitals; the protection of rivers from pollution and the interception and filtration of sewage; the cleansing of streets; the collection and disposal of domestic refuse; the purchase and demolition of unsanitary residence property; the provision of sites for improved artisans' dwellings; the making of new streets, open spaces and parks; and other things tending to diminish the death rate and make life in cities more tolerable for the masses. But to be appreciated and understood, these sanitary reforms must be studied in the concrete, in such populous centres as Glasgow, Liverpool, Manchester and Birmingham.

The great Scotch city was the pioneer in much of this modern municipal work. Its condition had become indeed deplorable. The bulk of its population was living in apartments of one or two rooms in tall tenement houses, many of which had neither in front nor rear a street or court more than three or four feet wide. In many districts the population exceeded one thousand per acre. The death rate was terribly high; contagious diseases were never absent, and great epidemics again and again swept over the city. The authorities proceeded with great courage to provide remedies. By permission of Parliament they bought up the worst districts, demolished houses, cut new streets, brought in air and light and effected the removal of many thousands of people to better quarters. They erected and manned the first hospital in Europe for fevers and contagious diseases, and took those maladies in hand so effectively that they have put an end to serious epidemics and have practically stamped out some forms of infection. They organized under a health officer an elaborate system of sanitary inspection, including five classes of inspectors and a minute districting of the city. They municipalized all food-markets and slaughter-houses, registered all dairies and milkshops, examined the sources of milk supply, and reduced to a minimum the danger from tainted

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and unwholesome food. They undertook the daily cleansing not only of all public streets and alleys but also of private courts and the common stairs of tenement houses; and they organized an effective department for the prompt collection of all domestic refuse, the cremation of a part and the shipment of the rest as manure. They ticketed and regularly inspected the one and two-room tenements to prevent over-crowding. They built and continue to operate a series of model lodging-houses for the floating element. They constructed elaborate public baths. They provided wash-houses with every modern convenience for the laundry work of the poor. They opened new parks and squares. They put gas-lights into the stairways of the tenement houses as a part of the public illumination. They held owners to strict account for the sanitary condition of buildings. They provided sites for workingmen's houses, and set a pattern by building a few model dwellings. The death rate has been most tellingly reduced, and the new undertakings have gone so far towards paying their own way as not to be a heavy burden upon the rate-payers.'

Manchester has from force of local circumstances been obliged to go even more elaborately than Glasgow into the work of scavenging and disposing of refuse; and that city is now about to enter upon a costly project for the purification of sewage. Birmingham has a sewage farm that is one of the triumphs of modern sanitary engineering; and its municipal authorities have within twelve years secured improvements of a magnificent character in the working out of a scheme which was adopted about 1875 under the provisions of the general artisans' dwellings act of the previous year — an enactment, by the way, which owed its form and substance principally to the Glasgow scheme. Under this act and its subsequent amendments, various other English and Scotch towns have demolished old houses, reformed the street system and vastly improved the sanitary conditions as well as the appearance and the commercial facilities of their central areas. Taking all in all, these things have constituted a most remarkable manifestation of municipal energy. Coincident with them has been the adoption of the libraries act and

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the rapid development of free libraries and reading rooms. Glasgow, Liverpool, Manchester, Birmingham and still other of the great towns have become possessed of corporation art galleries of already recognized importance. Moreover, it is during this period that the education act has been in operation; and millions of pounds sterling have been spent in erecting substantial school buildings in every part of these populous towns. Technical and art schools, directly or indirectly under the control and patronage of the municipal authorities, have sprung into existence everywhere.

And all these undertakings have, as a rule, been carried out with honesty and intelligence and upon a thoroughly sound financial basis. The re-sale of building lots fronting upon widened or new streets in areas cleared under the dwellings and improvements acts, is made to pay the major part of the cost of the scheme. The public baths and wash-houses at least pay running expenses even if they do not pay the whole of the interest charge. The markets and abattoirs are fully self-sustaining. The cleansing departments are partly sustained by sales of manure. The sewage farms yield mammoth crops that at least pay something towards the cost of sewage purification. As for the sanitary inspections, the epidemic hospitals, the disinfection departments and all that line of expenditure, the British municipalities have found out that the most effective system, no matter how much it costs, is the cheapest in the end; and that one epidemic scourge, growing out of neglect and niggardly expenditure upon preventive means, entails heavier pecuniary burdens upon the community than the cost for an entire generation of an effective sanitary department.

The English towns do not seem to me to be accumulating debts which a coming generation will find unbearable or even burdensome. The indebtedness rests almost wholly upon tangible property, and the great bulk of it is upon property increasingly productive. The water-supply system, the gas works, the tram lines, the markets and slaughter-houses, and some other items of municipal investment, are not only equal to paying their own way and redeeming their original cost, but can

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all at any moment be made productive of very considerable net revenues. Most of the English towns own productive real estate which has come down from earlier days as the old "common good" or "borough fund"; and some of them, as for instance Birmingham, have in connection with the recent improvement schemes disposed on the leasehold plan of the lands they acquired by freehold title, thus providing for a magnificent endowment at some future day when the leases "fall in." Certain items of current expenditure that add heavily to the tax rate of American cities are comparatively light in the British cities. Thus English and Scotch fire departments absorb an almost incredibly small fraction of the cost of the American departments, while the police forces are not only less expensive to begin with but have half their cost defrayed by grants from the general government. In fine, these municipalities are in a very tenable and safe financial position.

The English city governments are far from ideal perfection, and I would not seem to give them undiscriminating praise. They have some faults and anomalies and solecisms in their structure, and they are not free from all abuses in practical administration. They are better than American city governments chiefly because circumstances have compelled them to be. But American cities are becoming too large and too densely populated to be indifferent any longer to the problems that all cities sooner or later must face and solve; and they may learn some very valuable lessons from English experience if they are willing to give it their attention.

ALBERT SHAW.

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THE CONSTITUTIONS OF THE STATE OF NEW YORK. II.[1]

THE convention of 1846 had faith in the sufficiency of the canal revenues to defray the canal and state debt and to accumulate a fund for canal improvements. The alarm of the distinguished chairman of its committee on finances and canals (Michael Hoffman) lest the revenues from the canals might prove inadequate even to pay the debts, was groundless. The state actually paid the canal and general debt several years before the expected time of payment. In 1854, an amendment was added to the constitution which required the appropriation of all the canal revenues not needed for repairs and superintendence to the enlargement of the Erie, Oswego, Cayuga and Seneca canals, to the completion of the Black River and Genesee Valley canal and to improvements in the lockage of the Champlain canal. It also directed an annual appropriation of not more than $2,250,000 to the same objects for the ensuing four years.

The expenses of enlarging the Erie canal swelled its total cost to about $52,500,000. The Erie canal has returned an even larger sum into the state exchequer; and not only has it been a financial success, but it has proved one of the great factors in augmenting the population and developing the resources and wealth both of this state and of the territory about the Great Lakes.

In the year 1862, the revenue from the canals attained its maximum, the tolls collected in that year exceeding $5,000,000. After that date the amount declined, rates having been forced down by railroad competition. In 1882, the people of the state voted the abolition of all canal tolls and made provision for the liquidation of the existing canal debt by means of taxation.

[1] Continued from POLITICAL SCIENCE QUARTERLY, III, 3 (September, 1888), p. 489.

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As the constitution now stands, the greatest of these water ways are the inalienable property of the people and are free.

The Constitutional Convention of 1867.

In accordance with article xiii of the constitution of 1846, the question was submitted to the people of the state, at the general election held in 1866, whether a convention should be called to amend and revise the constitution. The question was decided in the affirmative, by a vote of 352,854 in favor of a convention to 256,364 against it. In the following winter, the legislature of the state passed a law providing for the election of 128 delegates from the various senatorial districts of the state and also for the election of 32 delegates for the state at large. The plan adopted by the legislature for the election of delegates at large introduced the principle of minority representation. No elector was permitted to vote for more than 16 of such delegates; a provision which secured the election of 16 Democratic and 16 Republican delegates at large. Of the district delegates the Republicans had a majority; so that they were able to elect the president of the convention and, to a certain extent, to control its committees. The epoch was not favorable for the holding of a constitutional convention, as partisan feeling then ran very high. The conflict between President Johnson and the Congress of the United States had reached its culmination, and the country was disquieted with the excitement which this contest had produced. The presidential election was near at hand, and it was evident to political managers that slight circumstances might turn the scale.

In this convention, as in all the earlier ones, the lawyers were in a large majority; and among them were some of the most prominent lawyers in the state. Horace Greeley, George William Curtis and Erastus Brooks were also delegates. Some of the ablest men in the convention had been chosen as delegates at large. Hon. William A. Wheeler was elected permanent chairman; and he presided very ably and impartially. The convention assembled on the first Tuesday of June, 1867, and terminated its labors on the 28th of February, 1868.

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Debate in the convention took an exceedingly wide range. Among the topics which received long and thorough discussion were the right of colored citizens to vote on equal terms with white men, a subject which had engaged the attention of the conventions of 1821 and 1846; female suffrage; minority representation; taxation; the appointment instead of the election of judges, district attorneys and state officers; special legislation; emancipation of cities; bribery; education; intemperance.

The convention proposed to abrogate property qualifications for colored voters; but this proposition, although separately submitted to the people at the election of 1869, was defeated; 282,403 voters insisting on the retention of the qualifications, and only 249,802 voting for their abolition. The old restrictions on colored voters therefore continued in force until they were overridden by the fifteenth amendment to the national constitution.

In some respects the convention of 1867 exhibited a marked reaction from the decentralizing spirit which animated the convention of 1846. This disposition is chiefly observable in its treatment of the mode of selection and term of senators; in its return to county representation in the Assembly, partly abandoned in 1846; in its lengthening the judicial term and providing for the election of the entire Court of Appeals upon a general ticket, and in its debates upon the proposition to appoint state officers and district attorneys. Upon the other hand the amendment which it reported, conferring increased legislative functions upon county boards of supervisors, was a further advance in the line of decentralization.

When the convention of 1846 determined to break the state up into thirty-two Senate districts, it did so in obedience to the demand of localities for separate representation in each house. It was then seriously argued that under the constitution of 1822 candidates had been chosen to the Senate for whom voters never intended to cast their ballots. One illustration frequently pressed into service related to a youthful candidate for senatorial honor, who was elected because many of his constituents in a distant part of his district had cast their suf-

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frages for him in the belief that he was another and a maturer person of the same name. Since the development of the increased facilities for the dissemination of news which later generations have witnessed, such mistakes (if they ever occurred) are rendered well-nigh impossible. As a rule, under the former system, with the state subdivided into a small number of districts, men of great promise, if not of actual prominence, were chosen to the Senate. Comparison of the lists of fifty or more years ago with those of recent times shows the decline in the intellectual character of the upper house. Formerly men of the stamp of DeWitt Clinton, Ambrose Spencer, Martin Van Buren, William H. Seward, Silas Wright, Samuel Young, Samuel Beardsley, Alonzo C. Paige sat in the Senate, but their peers are not chosen to-day to the same office. So marked had the difference become even in 1867, that many of the delegates to the constitutional convention of that year argued in favor of returning to the small number of districts established in 1822. Small districts, they argued, were no more entitled to separate representation in the upper house than counties. Large districts would invite men worthy of representing the entire state and banish, at least from the upper chamber, the spirit of local jealousies and of log-rolling so potent in securing local legislation. To exalt the dignity of the office, it was proposed also to make the term four instead of two years, vacating one seat in each district every year, thus ensuring the choice of one-fourth of the Senate at each annual election. This plan had the support of the strongest minds in the convention, but it was only partially adopted. The constitution reported by the convention retained the thirty-two Senate districts, while it lengthened the senatorial term to four years. It provided that the first senators elected under the new constitution in the districts bearing odd numbers were to vacate their offices at the end of two years, those in the districts bearing even numbers at the end of four years, thereby securing the election of one-half of the Senate every second year.

When the subject of Assembly representation came up for debate, a majority of the delegates voted to return to county

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representation as fixed by the constitution of 1821. The constitution of 1777 had provided for the election of assemblymen by counties, but it made the size of the Assembly dependent upon the growth of population, fixing the minimum membership at 70 and the maximum at 300. In 1801 the Assembly was limited to 100 members. In 1827 the unit of Assembly representation was ordained to be the county, but the membership was fixed at 128. A new unit of representation was introduced in 1846: the Assembly district. The constitution of 1846 required that members of Assembly should be apportioned among the several counties by the legislature as nearly as might be according to the number of their respective inhabitants, excluding aliens, and that they should be chosen by single districts. It then provided that every county theretofore established and separately organized (except the county of Hamilton) should always be entitled to one member of the Assembly, and that no new county should be erected unless its population should entitle it to a member. This complicated system was probably adopted because of the clamor of small districts for separate representation and of the reluctance of the least populous counties to risk loss of separate representation with the growth of the other parts of the state in population. But one great defect in this, the present plan, is the impossibility of giving all districts equitable representation, so long as county representation is adhered to and the Assembly remains a fixed quantity. Either the membership of the Assembly should vary with the population, or small counties should be merged together for purposes of Assembly representation. An extreme illustration will present the point: Population might be so distributed through the state that the counties of New York and Kings would contain three-fourths of the enumerated inhabitants. Each of the other fifty-eight counties (save Hamilton) would be entitled to one seat in the Assembly. Fifty-seven seats would therefore belong to the fifty-eight counties, but New York and Kings would then have only seventy-one seats, which would be much less than their *pro rata* on the basis of population.

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Separate Assembly districts might perhaps better be abolished. They have not elevated the character of assemblymen. But even if separate districts should be retained in the rural counties, cities of more than a fixed population should elect their assemblymen at large and provision could easily be made enabling minorities to obtain adequate representation. It would be a great boon to the county of New York if all its assemblymen were chosen by all the voters of the county, instead of in districts controlled by district leaders. A ticket addressed to all the electors of the county would be more certain to contain good names and far less likely to contain bad or doubtful ones. Whatever objection may be urged to county representation in other parts of the state, there is no reason for electing assemblymen by districts in the cities of New York and Brooklyn. The interests of separate municipal districts do not differ at Albany. They may clash in a municipal board, but not in the state legislature.

An attempt was made in the convention of 1867 to prohibit certain classes of local and special legislation altogether, by restricting the power of the legislature to make laws for localities and by bestowing increased legislative functions on county boards of supervisors. Most of the delegates admitted that special legislation was an evil productive of confusion, log-rolling, extravagance and corruption, but the convention did not readily agree upon the remedy. The report of the committee having charge of this subject tended, in the opinion of its opponents, too much towards decentralization; in other words, if adopted, it would, they thought, create sixty local legislatures. Some, prominent among whom was the late Judge Folger, were convinced that the true remedy for special legislation was to prohibit absolutely the enactment of special laws upon any subject. On the other hand Professor Dwight pointed out, what has since been the experience of the state, that special legislation could not be utterly suppressed; and that, if it were made unconstitutional, it would inevitably be attained under the guise of laws general in form but really operative only in some particular locality, or of laws passed merely for the accomplishment of a special purpose.

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The convention finally adopted an amendment clothing boards of supervisors with powers of legislation; but hardly any section of the new constitution was more debated or more amended than the section first proposed by the committee having charge of this subject. The convention also voted an amendment forbidding special legislation in a great variety of cases, which is similar to the amendment reported to the legislature by the constitutional commission appointed in 1872 and ratified by the people in the fall of 1873. It reported also an amendment prohibiting the legislature from passing any local or private bill, unless notice of intention to apply therefor should first have been given in a manner to be provided by law, and ordained that such notice should never be waived, but that the fact of omission of notice should always be open to inquiry. A substantially similar amendment was adopted by the commission of 1872, but failed to become law, as will be seen later.

The only work performed by the convention which was approved by the people was its amendment of the judiciary article. The new article reorganized the Court of Appeals, lengthened the term of judicial officers, and prepared two questions, relating to the appointment or election of judicial officers, for submission to the people at the election of 1873, a date sufficiently distant to allow the arguments for either method to be amply presented to voters. The convention was so nearly balanced upon the question of the respective merits of an appointive and an elective judiciary that it would have been unwise for a slender majority to commit the convention to either view. The question was therefore referred to the people, who decided at the annual election in 1873, by a large majority, in favor of electing judges of courts of record.

The judiciary committee, which was composed of some of the ablest lawyers in the convention, framed a judiciary article providing that judges of courts of record should hold office during good behavior or until seventy years of age. This report was exhaustively and ably debated but was not accepted by the convention. Had it been so approved, it might not have been approved by the people. It was admirably supported by some

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of the most prominent lawyers in the convention, some of whom have since become judges. The convention finally compromised upon a term of fourteen years, which was adopted chiefly on the ground that this had been found by experience to be the average term of judicial officers under appointive systems. Unquestionably the best arguments favored a tenure to last during good behavior. If fourteen years is the average judicial term, reason prompts the extension of the term to a life tenure, because a life tenure does away with the motives which induce a judge to seek a re-election by corrupt or improper conduct, or by like means to provide for his future in default of re-election. It is clearly illogical to argue that if the average life tenure is fourteen years, the term should be fourteen years; the term should continue during life or good behavior.

This convention also reorganized the Court of Appeals. It reported a section providing that the court should be composed of a chief judge and six associate judges, to be chosen by the electors of the state upon a general ticket and to hold their offices for a term of fourteen years from and including the first day of January next after their election. This mode of selection, as well as the longer term, was a reaction from the decentralization of 1846. A commission was also created to decide the unfinished causes on the calendar of the retiring Court of Appeals. The commission consisted of the four judges of the old court and a fifth commissioner appointed by the governor and confirmed by the Senate. The amendment reorganizing the Court of Appeals and forming a commission of appeals, and the amendment extending the terms of all other judges of courts of record to fourteen years, were ratified by the people in the fall of 1869. In the following winter the legislature passed an act providing for the holding of a judiciary election in May, 1870, at which the members of the new tribunal were chosen. The chief judge and two of the associate judges of the newly constituted court had been among the most influential members of the convention.[1] The judges took the oath of office in July, 1870.

[1] Sanford E. Church, Charles J. Folger, Charles Andrews.

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Generally such of the delegates as favored the appointment of judicial officers and a life tenure for the judiciary agreed in urging the appointment of state officers and of district attorneys, but a large majority of the delegates adhered to the elective system. The convention, however, reported an amendment to the constitution requiring that the secretary of state, comptroller, treasurer and attorney general should be chosen at the same time as the governor. This amendment found acceptance at the hands of the commission of 1872, but, though often mooted, it has never been ratified by the people. If such officers are to continue to be elected, their election should unquestionably be concurrent with that of the governor.

The arguments advanced upon the floor of the convention for the appointment of district attorneys seemed peculiarly apposite during the campaign in New York city in the fall of 1887. The popular movement which demanded Mr. Nicoll's nomination originated in fear lest the men then awaiting trial for alleged bribery had dictated the nomination of his opponent. A district attorney is a judicial rather than a political functionary. This view seems to have prevailed in the convention of 1821. District attorneys should certainly be singularly free from local political affiliations; and while an ideal system cannot be obtained, impartiality and independence in these officers would be best secured were they appointed by the governor and Senate and immediately removable for malfeasance by the governor.

The subject of municipal government received much consideration in the convention. The debate upon the conflicting reports from the committee on cities was protracted and to a certain extent partisan. The speeches of Mr. Harris, chairman of the committee on cities, and of Mr. Opdyke, also a member of the committee, presented the evils of city government and the remedies which were urged upon the convention in a clear and striking light. The majority report advocated a great enlargement of the powers of mayors of cities. It recommended that a mayor should have power to appoint heads of departments and officers charged with the administration of departments, and to remove at his pleasure all his appointees. It

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proposed also to confer on cities absolute power of self-government and to forbid the legislature from interfering with their affairs except by passing general laws. Mr. Opdyke, in a minority report, urged the restriction of the elective franchise in local affairs as a pre-requisite to investing cities with local self-government. He proposed that the mayor and a portion of the common council should be elected by citizens having the right to vote for state officers, and that municipal boards of aldermen and comptrollers should be chosen by persons owning property valued at not less than one thousand dollars. Such a limitation upon suffrage would, in his belief, be sanctioned by the people of the state; without it he should be constrained to vote against every increase of governmental power of cities.

The convention voted to report that general laws should be passed for the organization of cities. It also adopted a provision to the effect that members of common councils should hold no other office in cities and that no city officer should hold a seat in the legislature. Beyond this, it contented itself with a section, drafted by Henry C. Murphy, the purport of which was that the mayor should be chosen by the electors of every city as the chief executive officer; that he should have power to investigate the acts of the various city officers and the right to examine them and their subordinates on oath; that he should also have power to suspend or remove such officers, whether they were elected or appointed, for misconduct in office or neglect of duty, to be specified in the order of suspension or removal, but that no such removal should be made without reasonable notice to the officer complained of and an opportunity afforded him to be heard in his defence.

The financial article (article viii) remained substantially as in the constitution of 1846; but additions were made covering certain questions and a new section (15) was added, providing that real and personal property should be subject to a uniform rule of assessment and taxation.

Space will not permit a complete enumeration of the changes which were finally adopted by the convention. For a full list of these modifications, the constitution reported by the conven-

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tion must be examined. A select committee of ten, of which Judge Folger was chairman, was appointed to draft an address to the people. The address describes the character of the changes which the convention proposed in the organic law of the state. The new constitution was submitted for public ratification at the general election of 1869 and was voted down. The vote in its favor was 223,935 to 290,456 against it. The only article of the proposed new constitution which was approved by the people was (as already stated) the judiciary article, which was submitted separately, the vote being 247,240 in its favor to 240,442 against it. Two other provisions were submitted separately: the proposal to abolish property qualifications for colored voters and the proposal to subject real and personal property to a uniform rule of assessment and taxation; but neither was ratified by the people.

The Constitutional Commission of 1872.

In his annual message in January, 1872, Governor Hoffman, after adverting to the proceedings of the recent constitutional convention and to the failure of the people to approve its work, recommended that a non-partisan commission of thirty-two eminent citizens, to be equally selected from the two great political parties, should be appointed to propose amendments to the constitution for ratification by the legislature and the people. The message contained a large number of valuable suggestions, nearly all of which are to be found in the constitution reported by the commission.

Pursuant to the governor's recommendation, the legislature of 1872 passed an act which the governor approved, authorizing him to nominate and with the advice and consent of the Senate to appoint a commission of thirty-two persons, four from each judicial district of the state, to propose to the legislature at its next session such amendments to the constitution (exclusive of the judiciary article[1]) as the commission might deem proper. The act provided also the mode of filling vacancies in

[1] By a subsequent act of the legislature, this restriction upon the commission was removed.

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the commission, the place of its meeting, compensation of its members and various other incidental matters. In accordance with this enactment Governor Hoffman appointed thirty-two commissioners, some of whom, including George Opdyke, William Cassidy, Erastus Brooks and Francis Kernan, had been delegates to the convention of 1867. The commission assembled at Albany on December 4, 1872. Robert H. Pruyn was chosen chairman. Its sessions continued until March 15, 1873, when it adjourned *sine die*, after reporting a large number of amendments to the fourteen articles of the existing constitution and two new articles: one relating to municipal government, the other to the crime of bribery.

Although the powers of the commission were not as broad as those of the convention of 1867, there is a close correspondence in the changes proposed by the two bodies. While the convention of 1867 at various times brought a great number of topics under discussion, the actual outcome of its proceedings was not as fruitful of amendments as the work of the commission. Upon the subject of legislation, of the governor's veto, and particularly of municipal reform, the constitution reported by the commission went much further than the constitution reported by the convention.

Like the convention of 1867, the commission reported in favor of the abolition of all property qualifications for colored voters; and it reported, substantially, the amendment excluding bribers from exercise of the elective franchise which is to be found in the constitution adopted by the convention of 1867. The last amendment was ratified by the legislature and the people. The commission proposed also to increase the term of senators to four years and to divide the state into eight Senate districts, each of which should choose four senators, one every year; a change which had been proposed in the convention of 1867 but in part voted down, the convention of 1867 agreeing only to increase the senatorial term to four years. The commission further reported the prohibition of private, special or local legislation in thirteen enumerated cases. The clause containing these restrictions was adopted and is now section 18 of

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article iii. Some of the best suggestions of the commission upon the subject of legislation were not approved by the legislature, and therefore were never submitted to the people for ratification; for example, a section requiring that every bill introduced into the legislature should be considered and read twice, section by section, in the Senate and Assembly; that every bill should have three readings, no two on the same day; that every bill and all amendments to it should be printed and distributed among the members of each house at least one day before the vote upon its final passage; that the question on the final passage should be taken immediately upon the last reading, section by section, and by yeas and nays to be entered upon the journals; and that the assent of a majority of the members elected to each house should be requisite to the passage of every bill.

Section 18, as reported by the commission, is as follows:

> No private, special or local bill shall be introduced in any regular session after sixty days from the commencement thereof without, in each case, the recorded consent of yeas and nays of three-fourths of all the members elected to the house in which such bill is offered; and no such bill shall be passed unless public notice of the intention to apply therefor and of the general objects of the bill shall have previously been given. The legislature, at the next session after the adoption of this section and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof and how such evidence shall be preserved.

The main purpose of this provision — which unfortunately was not approved by the legislature and therefore was never submitted to the people — was to inform the public as to all private bills introduced into the Senate or Assembly, and thereby to secure to those most interested in defeating the passage of a private bill ample opportunity to register their opposition to it. This was the first attempt in the state of New York to adopt the principle of the parliamentary standing orders which have proved an invaluable safeguard in Great Britain against the passage of improper private or local bills. In the matter of private legislation, as well as in ballot reform, the example of Great Britain is worthy of emulation. The passage of special legisla-

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tion through Parliament is in the nature of a judicial proceeding. All private or special bills must be filed sixty days before Parliament convenes, and all whose interests such bills may affect adversely must be given ample notice to file objections. The promoters of all such bills are required to deposit sufficient sums to meet the expenses of the proceedings. The bills are then referred to special parliamentary committees, acting as judges; and if the objects of these promoters are approved, the bills must be made to harmonize with existing legislation before becoming laws.

The commission terminated the controversy which had perplexed the conventions of 1821, 1846 and 1867, as to the number of members of each house whose concurrence should be necessary to pass a bill over the governor's veto. The provision which it reported made the consent of two-thirds of the members *elected* to each house essential to the passage of a vetoed bill. It further reported that no bill should become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after the adjournment. These modifications were adopted by two legislatures and by the people, and form part of the constitution.

Another and much needed amendment reported by the commission, which has also found its way into the constitution, empowers the governor to veto one or more items of an appropriation bill, while approving all of its other features. The superior flexibility of the constitution of New York, as contrasted with the federal constitution, is shown by this amendment. The state has not suffered more from improper riders upon appropriation bills than the general government. But this pernicious practice on the part of Congress, though it was temporarily overthrown by President Hayes' resolute action in 1879, cannot perhaps be effectually suppressed without an amendment to the federal constitution, and such an amendment cannot be made without the consent of three-fourths of the states.

The commission proposed also that the governor's and lieutenant-governor's term should be increased to three years. This

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amendment was ratified and is now part of the constitution. It also reported amendments to article v, which provided that the comptroller should be elected at the same time with the governor and for the same term, and that the secretary of state, attorney general and state engineer and surveyor should be appointed by the governor with the consent of the Senate and hold their offices until the end of the term of the governor by whom they should be nominated and until their successors should be appointed. These amendments to article v, not having been favorably received by the legislature, have never been voted upon by the people.

The commission proposed also that a superintendent of state prisons and a superintendent of public works should be appointed by the governor with the consent of the Senate for the like term, and that the state treasurer should be chosen by the Senate and Assembly in joint ballot, to hold his office for three years or until his successor should have qualified. Only two of these provisions were adopted by two legislatures and have met with popular approval; namely, those relating to the appointment of the superintendent of state prisons and the superintendent of public works. These are now embodied in the constitution. The amendment in the mode of electing the treasurer was defeated in the legislature. The commission also decided that the lateral canals had outlived their usefulness and were and would continue a burden to the state. They therefore recommended a modification of section 6, article vii, restricting the prohibition upon the sale, lease or other disposition of the canals of the state to the Erie, Oswego, Champlain and Cayuga and Seneca. This amendment has become part of the constitution.

The commission proposed also to amend section 4, article viii, of the constitution, by requiring the legislature by general law to conform all charters of savings banks or institutions for savings to a uniformity of powers, rights and liabilities, and that all charters thereafter granted for such corporations should be made to conform to such general law and to amendment thereto. No such corporation was to be permitted to have capital

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stock, nor were the trustees to possess any interest, direct or indirect, in the profits of the corporation nor to be interested in any loan or use of money or property of such corporation. This amendment was ratified and is now in the constitution. The amendment eradicated an evil which had sprung from the creation of savings banks with stock, under special charters, without proper restrictions upon the investment of their funds. Some of these institutions, actuated by the desire to make large profits and declare handsome dividends, had taken risks entirely inconsistent with the nature of their business, to the great injury of depositors; and the temptation to such risks was increased by their having capital stock of which the directors or trustees could be holders.

Further amendments to article viii were reported by the commission in the shape of two new and most important sections (10 and 11). Section 10 in effect prohibited the state from loaning its credit or money in aid of any association, corporation or private undertaking, but expressly permitted appropriations for the benefit of the blind or of the deaf and dumb or of juvenile delinquents. Section 11 prohibited every city, county, town or village within the state from thereafter giving any money or property or loaning its credit in aid of any individual association or corporation, or from becoming directly or indirectly the owner of stock or bonds of any association or corporation; and further prohibited every such county, city, town or village from incurring any indebtedness except for county, city, town or village purposes. The section was not, however, to preclude provision for aid or support of the poor.

These sections were aimed at the latitudinary construction which courts, particularly those of the United States, had given to the powers of municipalities and towns, and were designed to terminate the disastrous system under which money and credit were loaned by cities to railroads and other private enterprises. Similar constitutional limitations were adopted about the same time in many other states. A new section (9) was also added to article x, providing that no officer whose salary is fixed by the constitution should receive any additional compen-

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sation; that the compensation of other state officers should be fixed by law and neither increased nor diminished during their term; and that no state officer should receive to his use any fees or perquisites of office or other compensation. Article iii, relating to the oath of office, was also amended. Despite the stringent oath now required from legislators and the severe penalties enforced against all concerned in bribery at elections, the offence continues to be common. A just measure of ballot reform would do far more to eradicate the evil than stringent oaths or penal legislation.

All of these amendments were subsequently approved by two legislatures and ratified by the people.

The commission proposed two additional articles to the constitution: articles xv and xvi. Article xv related to municipal reforms. Article xvi related to bribery. This article (which closely resembles article xiv, proposed by the convention of 1867) was adopted and is article xv of the present constitution. The article makes it a felony for any person holding office under the laws of this state to receive any money except his legal salary, or any fees or perquisites or anything of value or of personal advantage or any promise of either, for the performance or non-performance of any official act or upon the express or implied understanding that his official action is to be influenced thereby. The article further provides that any person who shall offer or promise a bribe, if it shall be received, shall be deemed guilty of a felony and liable to punishment. The briber shall not be privileged from testifying upon any prosecution of the officer for receiving such bribe; but he shall not be liable to civil or criminal prosecution for offering the bribe if he shall testify to offering or giving it. Offering a bribe which shall be refused is made a felony. The article also permits either the briber or the bribed to testify in his own behalf in any civil or criminal prosecution for the bribery. Provision is also made that any district attorney failing to prosecute a person amenable under this article shall be removed from office by the governor, after due notice and an opportunity to be heard in his defence. Expenses incurred in any county in investigating and prosecut-

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ing any charge of bribery or attempt at bribery within such county are made a charge against the state, and their payment by the state is required to be provided for by law.

But upon no topic before the commission was there a more urgent demand for action than upon that of municipal reform. The subject of abuses in municipal administration was not considered in the convention of 1821; for in that day cities were few in number and of comparatively small population; and, as they were managed by citizens possessed of property, such abuses as have become so familiar of late years had no existence. The opening of the door of universal suffrage in 1826 and the great immigration from Europe which followed some years later had, when the convention of 1846 assembled, injuriously affected municipal administration; but questions of more urgent (although not of more transcendent) importance occupied that body till the close of its sessions. The continued flow of population into cities, their increase in number and size, the relatively far greater increase in municipal debt and municipal taxation, the complicated and inconsistent character of municipal charters, the evil effects of constant legislative interference and of government by legislative commissions gave the problem of city government a significance in the convention of 1867 which it had never before possessed; but that convention failed to administer relief and the people failed to approve of the few provisions which it reported. In 1870, came the exposure of the Tweed frauds in New York city. Public sentiment then awoke, investigated the disease and demanded a remedy. The population of the cities of the state constituted one-half of all its inhabitants, and the valuation of property in municipalities amounted to three-fourths of that of the whole state. While economy had been steadily enforced in state government, corrupt and profligate expenditures had characterized city administration. In the city of New York, the municipal debt was $10,000,000 in 1840, $12,000,000 in 1850, $18,000,000 in 1860, $73,000,000 in 1870, and $117,000,000 in 1877; while taxation had increased from less than one-half of one per cent in 1816, or from about thirty-five one-hundredths of one per cent in

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1836, to two and sixty-seven one-hundredths per cent in 1877, and this increase was exclusive of the sums exacted every year from property holders in the shape of special assessments upon property assumed to be specially benefited. A corresponding disproportionate increase of taxation and debt over population was observable all over the Union. According to the report of a commission appointed by the governor of Pennsylvania in 1877, statistics of the increase of population, valuation, taxation and indebtedness of fifteen of the principal cities of the United States, from 1860 to 1875, exhibited the following results: Increase in population 70.5 per cent; increase in taxable valuation 156.9 per cent; increase in debt 270.9 per cent; increase in taxation 363.2 per cent.

Apart from the fact that cities have undertaken the performance of many functions for the citizens which legitimately require the disbursement of great sums and that many cities have improperly lent their credit to private enterprises, the causes of these excessive expenditures must be sought in the difference in the treatment of cities and villages by the state; in the debasement of municipal suffrage, the system of legislative commissions, and the consequent use of public office for political or pecuniary gain.

The policy of the state in granting charters to municipalities has been diametrically opposed to its policy in the organization of villages. General laws were passed by the legislature for the incorporation of villages as early as 1847, and the control of the expenditure of money for village purposes has been universally retained in the hands of the village tax-payers. On the other hand, no general law has ever been enacted in this state for the incorporation of municipalities, but legislative interference in municipal affairs has become almost the rule. No city charter is safe from legislative attack.

Again, although there is a large and growing proletariat in our cities, all citizens have a voice in the disposition of the moneys raised by taxation, notwithstanding that some of them contribute neither directly nor indirectly to the city treasury. If tax-payers alone are admitted to full village citizenship, al-

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though all citizens of villages enjoy the franchise where political issues are at stake, there would seem to be no substantial objection to a restriction of municipal suffrage to municipal taxpayers and rent-payers. If such limitations upon franchise are proper in villages, they seem far more appropriate in large cities, which contain a much larger proportion than villages of the ignorant, degraded and vicious.[1]

Legislative interference in city affairs has assumed protean shapes, but perhaps its worst phase was the appointment of commissions. In 1857, the politics of New York city, always heavily Democratic, were so largely under the domination of the ignorant and corrupt class and their unprincipled leaders that life and property were deemed to be in peril, and a Republican legislature and governor took the control of certain municipal departments from the city and placed it in the hands of the governor and Senate. The system then initiated was gradually extended until a large part of the city's business was transacted at Albany, sometimes by commissioners who were not residents of New York city but were hostile to her interests. A similar centralizing policy was drawing to the capital the control of all municipalities throughout the state. This was the state of affairs when the convention of 1867 sat; and this state of affairs accounts, in part, for the inability of that body to deal with the municipal question. The Democrats of the convention advocated home rule; the Republicans, with much justice, insisted that some of the offices controlled at Albany were state and not municipal offices.

The subject of municipal reform was therefore, naturally, one

[1] "If universal suffrage has worked ill in our larger cities, as it certainly has, this has been mainly because the hands that wielded it were not trained to its use. There the election of a majority of the trustees of the public money is controlled by the most ignorant and vicious of a population which has come to us from abroad, wholly unpractised in self-government and incapable of assimilation by American habits and methods. But the finances of our towns, where the native tradition is still dominant and whose affairs are discussed and settled in a public assembly of the people, have been, in general, honestly and prudently administered. Even in manufacturing towns, where a majority of the voters live by their daily wages, it is not so often the recklessness, as the moderation of public expenditure, that surprises an old-fashioned observer." James Russell Lowell, Democracy and Other Addresses, p. 8.

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of the most important topics before the constitutional commission of 1872. As already stated, the commission framed a new article relating to the subject of municipalities (article xv) for addition to the constitution. Mr. Opdyke, chairman of the committee on municipal reform, drew up, in explanation of the article, a report to the legislature which was approved by the commission. According to this report the proper functions of municipal government consist chiefly in keeping the streets, avenues, parks and wharves of a city in proper condition; in the preservation of order; in proper sanitary regulations; in the protection of property from fire and other hazards; in the assessment and collection of taxes; and in the adoption of such local laws as may be deemed most conducive to the comfort and material welfare of the people and to the growth and prosperity of the city. The proper performance of these duties could not, the report declared, injuriously interfere with the civil or political rights of individuals, because these rights are under the guardianship of the state. But in conformity with the attitude taken by Mr. Opdyke in the convention of 1867, the report argued that under municipal government it was clearly right to vest in the holders of property the power to check improper expenditures of money. The report therefore recommended the creation, in each city, of a board of audit, to be chosen by taxpayers and clothed with power to restrain excessive taxation and the lavish or corrupt expenditure of money. The most important provision of the new article was the creation of such a board of audit.

The article also conferred upon mayors increased executive powers. It provided that the mayor of every city, with the consent of the board of aldermen, should appoint heads of departments, and vested in him ample powers of removal. It gave him a veto over acts of the board of aldermen analogous to that given to the governor over the legislature; and it gave boards of aldermen power to pass measures over an executive veto, such as is bestowed upon the legislature by the constitution. The article then proceeded to confer upon every city government exclusive legislative power in all matters relating to tax-

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ation and expenditure for local purposes: the care, regulation and improvement of its streets, avenues, public grounds and public buildings, of its supply and distribution of water, of its alms-houses and its other charitable and benevolent institutions, and also such other powers as might be given by law. The article also required the legislature forthwith to enact a general law for the government of cities, in harmony with its terms.

This article did not meet with the approval of the legislature to which it was submitted, nor has it obtained that of any subsequent legislature. As legislative approval was a condition precedent to its submission to the people, the people have never had an opportunity to say whether it ought to be adopted and made part of the constitution.

The Municipal Commission of 1876–77.

Although municipal reform failed in 1874, it was soon again urged by a statesman who had been a member of the constitutional conventions of 1846 and 1867. After Governor Tilden's election to the chief magistracy of the state, he submitted to the legislature a special message relating to cities. The message stated that the convention of 1846 had accomplished nothing in the direction of municipal reform beyond adopting a provision on the last day of its session devolving upon the legislature the duty of enacting laws to protect municipalities against excessive taxation and financial evils similar to those from which the state had suffered prior to 1846. After referring to the fact that, so far from discharging the obligation imposed by the constitution, the legislatures had in reality acted in direct opposition to their duty, and after adverting to the alarming increase in the debts of some of the leading cities in the state, the governor suggested that a commission should be appointed for the purpose of framing some permanent uniform plan for the government of the cities of the state. The message was presented to the legislature on May 22, 1875. On the same day a concurrent resolution was adopted by the two houses, authorizing the governor to appoint such a commission, to consist of not more than twelve persons, "whose duty it should be to con-

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sider the subject referred to in said message, to devise a plan for the government of cities, and to report the same to the next legislature." The commission was made up equally from the two great political parties. Its members were William M. Evarts, James C. Carter, Oswald Ottendorfer, William Allen Butler, Joshua M. Van Cott, E. L. Godkin, John A. Lott, Simon Sterne, Henry F. Dimock, and Samuel Hand. The commission organized immediately after its appointment. Its first meeting was held December 15, 1875, and Mr. Evarts was elected chairman. So great was the task undertaken by it that it was unable to report to the legislature of 1876. The legislature of that year therefore extended its time to the session of 1877.

The report submitted by the commission is a most valuable contribution to the discussions respecting municipal reform and is deserving of the most attentive study. It deals first with the evils existing in the government of cities. These, it argues, are two in number: first, the accumulation of permanent municipal debt; secondly, the excessive increase of the annual expenditures for ordinary purposes, which is well illustrated in the case of New York city.

These evils of municipal administration were declared to flow largely from the employment of incompetent and unfaithful governing boards and officers. Without challenging the integrity, intelligence or loyalty of every official in the municipal service, the report justly asserted that, had the cities of this state during the preceding twenty-five years had the benefit in the various departments of local administration of the services of competent and faithful officers, the aggregate of municipal debts would not have been one-third of the present sum nor annual taxation one-half of its present amount, while the condition of these cities in respect to existing provisions for the public needs would have been far superior to what is actually exhibited.

This evil, conjoined with the introduction of state and national politics into municipal affairs and the assumption by the legislature of direct control of local questions, was declared to be responsible for the almost desperate condition of city government.

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If [said the commissioners] any one questions the mischievous results of these practices, he has but to note the increase of debt and taxation in the city of New York from 1860 to the present time, during which legislative intervention in the local affairs of that city has been most extensively asserted. The debt has increased from eighteen millions to one hundred and thirteen millions; and the taxation for annual expenditures from nine to twenty-eight millions.

The remedies which the commission proposed were to give municipalities exclusive control over local affairs, and to lodge the choice of the local guardians and the trustees of the financial concerns of cities with tax-payers and rent-payers. The commission argued that the affairs of a municipality are analogous to those of a business corporation; that unrestricted suffrage has no just place in the determination of expenditures for municipal purposes out of the money of tax-payers; that this view was in accordance with the established policy of the state with regard to villages and smaller cities and should be made applicable to all municipalities. Summing up the argument upon this head the commissioners said:

The establishment of a representative body, to be chosen by tax-payers, is, therefore, the proper method by which they can control the question of expenditure and taxation in large cities; but the provisions of the constitution, declaring in effect that all elective officers are to be chosen by universal suffrage, stands in the way of such a procedure. . . . The measure we recommend is not in opposition to the principle of general suffrage but in support of it — as much so as if the sole duty of this commission had been to consider how that principle could be best preserved and perpetuated. No surer method could be devised to bring the principle of universal suffrage into discredit, and prepare the way for its overthrow, than to pervert it to a use for which it was never intended and subject it to a service which it is incapable of performing.

The commission therefore proposed a framework for the local government of cities, to be incorporated in the constitution of the state, of which the following were the principal features:

First: The delegation of the entire business of local administration to the people of the cities, free from legislative interference therewith; reserving to the state its functions of making the general laws under which the local affairs are to be administered, and also a supervision of the manner of administration.

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Second: A chief executive officer, clothed with the authority of general supervision and with the unfettered power to appoint the other principal executive officers, except those two (the chief financial and chief law officers), whose duties immediately affect the matter of the public expenditures, and with the power of removal, subject, however, to the approval of the governor.

Third: A board of aldermen, clothed, as now, with all the legislative powers, except such as relate to taxation and expenditure, and elected, as at present, by the people.

Fourth: A separate body, called the board of finance, to be elected by tax and rent payers, with such powers only as relate to taxation, expenditure and debt, its principal functions being to determine the amount of the annual expenditure and to appropriate it to its various objects and purposes. The assent of this body is made requisite to the appointments of the chief financial and law officers.

Fifth: A detailed plan, designed to be complete in itself, for securing efficiency, order and frugality in the financial administration, and to be executed by the board of finance. Its main features are:

1: The determination in each year of the sum of money requisite to be expended for all objects and purposes, and what part thereof is to be raised by taxation, and the levying of the latter sum.

2: The appropriation at the same time of the whole sum to be expended to the several objects and purposes.

3: The certain realization of the entire amount appropriated by compelling the re-levying of deficiencies in the collection of taxes.

4: The prohibition of any expenditure beyond the sums appropriated, by making all contracts or engagements in excess thereof void.

Sixth: A further enforcement of the maxim, "pay as you go," by a prohibition against borrowing money or incurring debt, except under certain specified conditions, not likely to arise often.

Adopting the opinions of Governors Van Buren and Tilden, as expressed in their messages to the legislature, the commission also urged the passage of an amendment separating municipal from state and national elections.

The amendments reported by the municipal commission were approved by the legislature of 1877. As a pre-requisite to their submission to the people, the constitution required their approval by the next legislature thereafter to be chosen. But, as one of the commissioners has since stated:

In the interim between the submission of the report, which had been received at the time of its issue with considerable favor, and its proposed

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submission by the legislature, a demagogic cry of "disfranchisement" had been raised against the scheme, because of the creation of a board of finance; and politicians of both parties were apprehensive that any step taken by them to forward the commission's plan by voting for it in the legislature or aiding in having it submitted to the people might result in harm to them; they therefore united in ignoring the work of the commission in the legislature next succeeding the submission of the report; and it thus failed of adoption.[1]

Since the report of the municipal commission to the legislature, two attempts have been made to secure the passage of constitutional amendments for reform in city government. By the first, the legislature of 1881 recommended an amendment to section 2 of article viii — a section, it will be remembered, which was proposed by the commission of 1872 and ratified by the people in 1874, and which prohibited counties, cities, towns and villages from giving money or property or loaning money or credit to any individual, association or corporation or incurring any indebtedness except for county, city, town or village purposes. The amendment recommended in 1881 was chiefly intended to forbid any county containing a city of over 100,000 inhabitants or any such city from contracting any indebtedness, which, with its existing indebtedness, should exceed ten per cent of the assessed valuation of the real estate of such county or city subject to taxation. This amendment was approved by several succeeding legislatures, was submitted for popular ratification in November, 1884, and became part of the constitution on January 1, 1885. The criticism upon this amendment is that the limitation may be evaded by raising the assessment.

In 1882, the legislature recommended a more important amendment. It proposed that general laws should be enacted for the incorporation of cities and incorporated villages, and that full authority should be given to every city to organize its own local government and administer the same for local and municipal purposes, subject only to such general laws as the legislature might enact. All such local governments were required to be

[1] Simon Sterne, Cities, Lalor's Cyclopædia of Political Science.

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republican in form. Other provisions of the amendment forbade any city from increasing its permanent debt, raising the rate of taxation or issuing bonds without popular approval to be given by a majority of the electors at a general charter election. Like all its predecessors of similar tenor, this proposition failed to receive the approval of a second legislature and was therefore never submitted to the people.

Five constitutional conventions have been held in the state of New York, in a period of one hundred and ten years; and, excepting the convention of 1801, whose task was limited chiefly to the determination of the true construction of article xxiii of the constitution of 1777, creating the council of appointment, each has reported a complete constitution; and of the four constitutions proposed, three have been adopted. Forty years have elapsed since the holding of the last convention whose entire work was found acceptable to the people of the state. But, as the foregoing pages have shown, the work of amendment has been carried on with great activity during the last fifteen years. Since 1872, many important restrictions upon legislative action have been incorporated in the organic law of the state; among others, restrictions of the power to pass private and local bills, and prohibitions against the creation of state and municipal indebtedness and against granting extra emoluments to state officials or altering their compensation. The governor's term has been lengthened and his veto power enlarged. The right of suffrage has been extended, and bribery on the part of a candidate and the acceptance of a bribe by an elector have been rendered more dangerous if not less frequent.

The method of constitutional amendment by legislative initiation has been frequently resorted to since its first adoption, in the constitution of 1822; and it has given us some of the most important provisions of our fundamental law. Amendments which find their way into a constitution by this means are usually presented singly. They stand or fall upon their own merits or demerits, and are not defeated, although salutary, because of being coupled with provisions which encounter public hostility. While the several articles of an entirely new constitution might

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be submitted to the people separately, it would be difficult if not impracticable to submit the articles section by section; and even the several articles have never been submitted singly in the whole history of the state. There are, unfortunately, practical limits in the way of submission of separate sections of separate articles of the work of a constitutional convention which are not experienced when amendments are recommended by the legislature. The convention of 1777 never submitted its work to the people; but the convention of 1821, which was empowered by the act of 1820 to present its amendments to the people together or in distinct propositions as it might deem expedient, concluded to submit them as a whole and as a whole they were approved. The act of 1845 gave the convention of 1846 a like option and its work was ratified as an entirety. The act under which delegates to the convention of 1867 were chosen provided that any amendments or the amended constitution should be voted upon as a whole or in separate propositions as the convention should deem practicable and should by resolution declare. The convention reported that its amendments were interdependent; that, in its judgment, they made a complete and harmonious constitution, and that it was not judicious to take any part from the other to be passed upon by the people separately, excepting only the propositions which, as already stated, were separately submitted. In accordance with this report, the act of 1869 directed that the constitution proposed by the convention should be submitted as a whole, with the exception of the provisions relating to the qualifications of colored voters, to bribery and corruption, assessment and taxation, and of the amended judiciary article; which article, as has been seen, was the only provision which met with popular approval. It is not indulging in too much latitude of inference to assume that many provisions of the excellent work of that convention would have received popular ratification had they been submitted independently of others which were manifestly unpopular.

On the other hand, amendments which have come into being by the method of legislative initiation have always been separately submitted. Ordinarily they have been amendments

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of single sections. In 1874, when a large number of amendments were voted upon contemporaneously, the legislature provided for separate submission of amendments relating to different topics. The advantage of this method of amendment is very great; but it suffers from one serious drawback to complete usefulness, namely, that amendments which originate in legislative resolutions do not ordinarily attract sufficient public attention, although the constitution requires that they shall be published for three months prior to the election of the second legislature whose approval is needed before they can be submitted to the people. It is probable that comparatively few voters were aware until they reached the polls, last November, that a constitutional amendment, relating to the formation of a court to facilitate the disposition of appeals to the Court of Appeals, was then to be voted upon.

Public indifference to legislative proceedings operates injuriously in another mode. Many valuable amendments have been lost in the second legislature, for example, the resolutions favoring reforms in city government and the passage of general laws for the incorporation of cities, which in various phases were approved by the first legislature but never carried through another. Without pronouncing that any of these resolutions merited adoption and approval by the electors, it may be justly said that an alert public opinion would never have allowed the people to be thwarted of a chance to vote upon these propositions. If these resolutions were defeated by an adverse public sentiment expressed in a legislature elected with a view to their consideration, there would be no ground of complaint; but that was not their fate; they were lost because politicians were afraid of the effects of their adoption. In fact, the constitutional requirement for submission of amendments to a second legislature has acted as a hindrance to constitutional reform.

A third method of amendment, which is but a modification of the legislative method, has been twice employed in this state, *viz.* the appointment of constitutional commissions to propose amendments to the legislature. Such commissions are likely to contain men of more abundant talent and experi-

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ence than our ordinary legislatures exhibit; and, as their number is small, their deliberations are usually conducted with more order and advantage than attend the proceedings of a convention. Judge Jameson has questioned the constitutionality of amendments originating in commissions not expressly provided for in the organic law; but there does not seem to be any reason for assuming that a commission exercises more coercion over a legislature than the public sentiment to which all commissions and legislatures are alike sensitive and alike amenable.

Professor Dicey, in his work on the English constitution, demonstrates the complete flexibility of an unwritten constitution such as that of Great Britain. In point of fact the constitution of a state like New York, open to amendments by either of two methods, approximates closely to the mobility of an unwritten organic law.

Although the people of the state voted two years ago to call a constitutional convention, it may fairly be doubted whether a convention for a general revision of the constitution is necessary. Numerous improvements in our fundamental law appear to be demanded in some quarters; and if it were a question of making a perfect theoretical constitution for the state, doubtless many apparently advantageous changes might be suggested. But prudence dictates that long-established governments should not be changed for light and transient causes. Public sentiment, as Burke was among the first to observe, should be the sole source of alterations in law, and a wise conservatism waits until its tones are imperative. If any amendment is clearly demanded by the people of the state, — particularly by our municipalities, and chiefly by the metropolis, which, through the sturdy independence of its late mayor, has recently forced from the state government an acknowledgment of the city's exclusive control over its own affairs, — it is a constitutional guaranty to cities of the prerogative of local government. It would be easy to demonstrate how deep a hold the doctrine of local government possesses in this country; how, in many states, municipal and town independence is as old as the central authority. The common legal theory of a municipal corporation, as a creature

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whose existence may be terminated and whose powers may be revoked by the arbitrary fiat of the state, is to be taken in connection with the larger political truth, that local government is not the creation of state government and that, were the state to revoke a municipal charter, it would break with all just traditions if it should assume to govern the city by central authority.

Municipal reform will, perhaps, never be completed until the mayor of a city becomes its chief administrative officer in fact as well as in name. The theory of vesting the appointment of heads of departments exclusively in the mayor is that responsibility is thus concentrated in the executive and that, as the executive is amenable to the people at short intervals, the control of the administrative machinery is kept fairly in the popular grip. But the theory logically requires that the amplest power of removal should also be given to the mayor. Executive responsibility is defied and brought to naught when a mayor can make an officer but cannot unmake him. The bureau chief then becomes a political Frankenstein. What gave the government of Brooklyn its cohesion during Seth Low's administration was that each chief of department took his office under a pledge to surrender it whenever the mayor should demand his resignation. But a constitutional acknowledgment of municipal independence is one thing; the details of government, another. If cities are ensured the exclusive management of their own local concerns, they may be trusted to work out a system of administration adapted to their conditions and requirements.

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DECISIONS OF THE COURTS IN CONSPIRACY AND BOYCOTT CASES.

THE courts have come into contact with the labor movement, as such, in one way only. This has been in the decisions they have been called upon to give on the applicability of the common-law offence of conspiracy. The crime of conspiracy has been generally recognized as one of the offences which has been most difficult to define in the common law, a system always somewhat vague in its definitions. The theory seems to have been that combinations of men are so fraught with possibilities of injury to society and of oppression to individuals that they are to be looked upon with general suspicion by the courts. If at any time a combination proposes to itself unlawful ends or unlawful means to its ends, or becomes injurious to society or oppressive to individuals, the combination itself is to be punished as criminal, irrespective of any acts performed by it. The application of this doctrine to combinations of workmen has been made in a series of cases during the last and the present century in England, and in the American cases which form the subject of this paper.

There are three characteristics of this branch of conspiracy law which it is of importance to notice here. First, the offence of conspiracy has been defined almost entirely by the judges, not by the legislators. Of this Judge Stephens, in his history of the common law, says: "In a legal point of view no part of the whole story is so remarkable as the part played by the judges in defining and indeed in a sense creating the offence of conspiracy." Secondly, the English decisions, and through their influence our own, have been modified largely by the statutes of laborers and the combination laws, which long stood on the English statute books as a striking instance of class legislation and a reversal of the real common law. Thirdly, there is a recognized want of agreement in the decisions as to

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the bases of criminality, though there is a general consistency in the conclusions reached. In many cases the judges express an entire dissent from the reasonings of the previous jurists, at the same time that they acknowledge that they have reached practically the same conclusion.

Conspiracy cases have arisen in something like the following way. When a dispute has arisen between an employer and his employees the latter have combined to strike, or, as in some of the recent cases, have declared a boycott until the employer should grant their claims. The employer, occasionally, in such a case, instead of leaving it to a mere trial of strength, has either applied to the courts for an injunction against the action of the employees, or has made a complaint which has resulted in an indictment for conspiracy.

Of such cases there have been in our national history about forty. They fall chronologically into three distinct groups: some twelve cases extending over a period of forty years, from the beginning of the century to 1840; then, after a long intervening period, six or eight cases immediately after the war, in 1867, 1868 and 1869; again, after almost twenty years more of immunity from such prosecutions, a large number, about twenty, in the last three years, 1886, 1887 and 1888, of which some are still before the courts. The reason for this periodicity is not apparent. The cessation of the early series of cases may perhaps be explained partly by the rise of a democratic and equalizing spirit characteristic of that time, partly by the more liberal spirit shown by the judges in the last two decisions. Popular self-assertion, the decay of many of the aristocratic ideas of the colonial and early national period and the substitution for them of a strong feeling of equality of classes, are striking characteristics of the period just before and just after 1840. Typical of the time are such occurrences as the anti-rent and native American riots, Dorr's rebellion, and the political revolution of 1840. At the same time, in at least two decisions, that of the Connecticut Carpet Weavers in 1833,[1] and Commonwealth of Massa-

[1] Case of the Hartford Carpet Weavers. Printed at Hartford, 1836. *Niles' Register*, Sept. 27, 1834.

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chusetts *vs.* Hunt in 1845,[1] a distinctly more liberal tone was taken towards the workingmen's organizations. Whatever may have been the reason for the cessation of prosecutions in 1840, the recurrence of such prosecutions at two succeeding periods was no doubt the result of the initiation of a still more aggressive policy by the labor unions.

The decisions of the courts in the first group of cases oscillated continually between a severe and a liberal treatment of the labor organizations and their actions. As late as 1834, Chief Justice Savage of New York, in the well-known case of People *vs.* Fisher,[2] declared that "journeymen may each singly refuse to work unless they receive an advance of wages; but if they do so by preconcert or association they may be punished for a conspiracy." This statement of the law has, however, since been denied by other judges, and the simple strike for increase of wages has been everywhere legalized either by statute or by precedent.

In the second group is little that is distinctive, and nothing worthy of discussion apart from the recent cases.

In 1885, as is well known, an agitation of unusual activity was begun among the labor organizations. The Knights of Labor increased in numbers at an astounding rate, and the trades unions, either under their auspices or in emulation of them, made every effort to increase their strength and perfect their organization. This movement reached its height during the year 1886, and was accompanied by a multitude of strikes, numbering in that year, according to the report of the national commissioner of labor, more than fourteen hundred. In the course of the industrial conflicts of that and of the succeeding two years, there have been about twenty instances in which either prosecutions for conspiracy have been instituted or restraining injunctions asked for from the courts. In almost all of these cases the decisions of the legal points involved have been adverse to the workingmen's organizations.

[1] 4 Metcalf, 111. The case was tried before the municipal court in 1840, but did not reach the supreme court until 1845.

[2] 14 Wendell, 9.

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Many of the recent cases, as has been said before, have been complicated by the existence of a "boycott," in the industrial or American sense of that word. With the boycott as a popular (or an unpopular) institution, especially with its more conspicuous though perhaps less essential features, all are familiar; but from a legal point of view it has been looked upon by the courts simply as a case of criminal conspiracy. A strike contemplates depriving the employer of laborers, and by this means putting an end to his production and earnings until he accedes to the strikers' requests. A boycott contemplates depriving the employer of his customers, and, in some cases, of his source of supply for raw materials, and thus in every way isolating him from the surrounding business community. The boycott has accordingly been put upon the same bases as strikes for higher wages, strikes against non-union workmen, and strikes for other causes. A consideration of what these common bases are is the main subject of this paper.

A careful examination of the decisions, charges, and remarks of the judges in all the American cases indicates that there are three general bases for their declaration of the criminality of the combinations involved; three prevailing ideas in the judicial mind which lead to adverse decisions. These are, first, that the actions of the labor organizations are "in restraint of trade;" secondly, that they are an undue interference with the conduct by the employer of his own business; and, thirdly, that they exercise an unjust coercion over other individuals not members of the combination. It is intended to show that these are the bases on which the cases have been decided, and to point out that (from a social rather than from a legal point of view) the bases are inadequate to justify such decisions.

The oldest, and also the latest, of these bases of criminality is that such combinations are against public policy, and therefore criminal, because they are "in restraint of trade." It was on this point that the first reported case in America[1] chiefly turned, and this has been made the principal basis of the decis-

[1] Trial of the Boot and Shoemakers of Philadelphia. Printed at Philadelphia, 1806. A very rare pamphlet.

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ions given in a well-known case in New York, still before the courts.[1] In the first of these cases, in which the defendants were convicted of a "conspiracy to raise their wages," and fined eight dollars each, the judge asks:

> What, then, is the operation of this kind of conduct upon the commerce of the city? It exposes it to inconvenience, if not to ruin; therefore it is against the public welfare.

In the recent case, Barrett, J., quoting with approval an earlier decision, says that a strike against non-union workmen "diminishes the quantity of productive labor," and therefore is "an injury to the community and an act injurious to trade."[2] Between the decision given in 1806 by Recorder Levy in Philadelphia, and that given by Judge Barrett in New York in 1887, a long list of cases have involved this point more or less largely: the Pittsburgh Cordwainers in 1815,[3] People *vs.* Fisher in New York in 1835,[4] and People *vs.* Van Nostrand in 1867;[5] and among recent cases, State of Connecticut *vs.* Glidden,[6] State of Vermont *vs.* Stewart,[7] Old Dominion Steamship Co. *vs.* McKenna,[8] the Theodore Thomas case in Chicago,[9] and others. But although the judges have been quite consistent in declaring certain combinations to be "in restraint of trade," the idea in mind in the use of that expression has been quite different in different cases. Sometimes it has meant that the actions of labor organizations lead to a general disturbance of the even tenor of business. To quote again from the early Philadelphia case of the boot and shoemakers, the recorder said:

> Is there any man who can calculate, if this is tolerated, at what price he may safely contract to deliver articles for which he may receive orders, if he is to be regulated by the journeymen in an arbitrary jump from one price to another? . . . This tends to destroy the trade of the city.

[1] People *ex rel.* Gill *vs.* Smith, 5 N. Y. Cr. L. Rep. 509.
[2] 5 N. Y. Cr. L. Rep. 511.
[3] Quoted in Trial of 24 Journeymen Tailors. Printed at Philadelphia, 1827.
[4] 14 Wendell, 9.
[5] Carson's Law of Criminal Conspiracies, Phila. 1887, p. 164.
[6] 55 Conn. Rep. 46.
[7] 59 Vt. Rep. 273.
[8] 30 Fed. Rep. 48.
[9] *Chicago Law Times*, November, 1886.

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Again, in People of New York *vs.* Fisher,[1] Judge Savage asked: If journeymen bootmakers by extravagant demands for wages so enhance the price of boots made in one place that boots made elsewhere can be sold cheaper, is not such an act injurious to trade? In the case of State of Vermont *vs.* Stewart, decided in 1886,[2] Judge Powers uses such expressions as these: "If they tend to the destruction of the material prosperity of society," "the good order, peace, and general prosperity of the state are directly involved in the question;" and so forth. Many other quotations could be made to show what a large place in the mind of the judges this meaning of restraint of trade has held.

This idea, that the actions of combinations of workmen tend to disturb, and therefore to restrain trade has evidently arisen from too narrow a view of the matter involved. The actions of labor organizations have, in a broad view and in the long run, been an element of stability, not of disturbance, in industrial society. Variation, change, disturbance, has been one of the principal characteristics of the modern industrial movement. Prices have varied, profits have varied, cost of production has been unstable. The efforts of workmen acting in unison have tended largely towards making wages a fixed factor in the cost of production, and have therefore acted to lessen, rather than to increase this undesirable character of industry. The natural refutation, therefore, of this charge of disturbance of trade is that combinations of workmen do not so act.

The most definite objection made against the combinations as being in restraint of trade is, however, that they "lessen the supply of productive labor." This point is usually made in cases of strikes or boycotts against non-union workmen. The celebrated New York case of People *vs.* Fisher,[3] tried in 1834 and 1835, was one where a union of journeymen shoemakers of Geneva, New York, had adopted by-laws which forbade any of their number making coarse boots for less than one dollar a pair, and also pledged them to leave the employment of any master shoemaker employing journeymen who had violated this rule. One of their number did violate it by taking work

[1] 14 Wendell, 9. [2] 59 Vt. Rep. 273. [3] 14 Wendell, 9.

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from his employer at seventy-five cents a pair. His fellow members immediately struck work at this establishment until he should be discharged. For this they were indicted for a criminal conspiracy. They were acquitted by the county court on the ground that they had committed no offence. The supreme court reversed this decision. Among other things Judge Savage said:

> In the present case an industrious man was driven out of employment by the unlawful means pursued by the defendants, and an injury done to the community by diminishing the quantity of productive labor.

A similar case in New York city was decided the next year adversely to the labor association on the same grounds.[1] The case of People *vs.* Gill, still before the courts in New York, is so similar to that just described that scarcely more is needed than a change of names and dates to make them identical. In the decisions so far given in this case the same view of restraint of trade is taken and the words of the decision of the earlier case are quoted with approval.[2]

Another case decided two years ago in Chicago[3] involved the same point. Theodore Thomas imported an oboe player to play in his orchestra. The union to which his musicians belonged had a by-law which prevented any person from becoming a member until he had been in this country at least six months; and another by-law which forbade members, under penalty of fine, from playing in an orchestra with men who were not members. When an attempt was made to enforce this rule in the case referred to, Mr. Thomas applied to the courts and they issued an injunction forbidding the union to interfere in the way of fines or otherwise to prevent its members playing in Mr. Thomas's orchestra. The ground on which the injunction was issued was that such a rule as the by-law referred to above was in restraint of trade.

This view of restraint of trade must be acknowledged to be

[1] Case of Journeymen Tailors; reported in *Commercial Advertiser*, June 11, 1836; cited in Report of New Jersey Bureau of Statistics, 1885, pp. 274–5.

[2] 5 N. Y. Cr. L. Rep. 512.

[3] See *Chicago Law Times*, November, 1886.

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tenable. Such action of combinations does cause a temporary and small diminution in the amount of productive labor. The question, however, arises whether this lessening of the amount of production is of sufficient importance to call for the interposition of the community by means of the courts. The actual or probable diminution of production in this way is almost infinitesimal; certainly, compared with the diminution brought about through the action of trusts and pools, or even with the action of the less objectionable producers' associations, it is entirely insignificant. Moreover, we are not now, as a community, in such very great need of an absolutely unimpaired supply of productive labor. The two meanings given to the expression "restraint of trade" — first, disturbance of trade; secondly, diminution of production — are, therefore, both subject to grave criticism in the light of present economic and social conditions.

We come now to the second of the bases for the decisions; that the actions of combinations are an unwarrantable interference with the employer in the management of his business. In the case of State of New Jersey *vs.* Donaldson,[1] decided in 1867, — the only instance in which "Jersey justice" has been brought to bear on the question of conspiracy, — the employees of a certain leather manufacturer were indicted for agreeing to strike unless two fellow employees were discharged. Chief Justice Beasley declared this a criminal conspiracy. He said:

> It appears to me that it is not to be denied that the alleged aim of this combination was unlawful; the effect was to dictate to this employer whom he should discharge from his employ. This was an unwarrantable interference with the conduct of his business. . . . It is simply the right of workmen by concert of action and by taking advantage of their position to control the business of another.

Two years afterwards, in Pennsylvania, in the case of Commonwealth *vs.* Curren,[2] it was ruled that no body of men has a right to dictate to the owner of a colliery whom he shall employ to work it, nor to say that the work shall not be done by those whom the owners may employ to do it. If a society or union, acting in its associate capacity, brings about a strike and upholds

[1] 3 Vroom, 151.

[2] 3 Pittsburg Rep. 143.

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the demands of the strikers, then all who are members of the association and participate in its action are guilty of a criminal conspiracy. The recent cases in which this view has been an important factor are State of Connecticut *vs.* Glidden,[1] State of Wisconsin *vs.* Schilling,[2] Old Dominion Steamship Co. *vs.* McKenna,[3] and the case of Baughman Brothers *vs.* Members of the Typographical Union, in Richmond, Virginia.[4] The object in all these cases was to prevent the employment of non-union workmen. The pressure put upon the employers to obtain this was in the earlier cases a strike merely, in the later cases a strike and boycott.

Against the view taken by the courts that such an attempt is an undue interference with the independence of the employer in carrying on his business as he thinks best, it is to be said that a business cannot properly be looked upon as belonging entirely to the employer. Every business is in a certain sense a joint concern. The employer furnishes the capital and the general management, while the employee furnishes the labor and such individual management as may fall to the lot of the function he fulfils. Their joint product is divided between them. Neither from an economic nor from a social point of view can the laborer be properly looked upon as co-ordinate with the machinery and the raw material. He is rather co-ordinate with, though performing less elevated functions than, his employer. If this is so, then the demand of the employees that none but union men be engaged, that such and such shop rules be enforced, and similar claims are not an undue interference with the employer's affairs, as the courts have declared, but simply a demand for certain changes in an affair of joint interest to the two parties.

The matter could hardly be more completely misstated than in the case of State *vs.* Glidden, already referred to. Here the judge said:

[1] 55 Conn. Rep. 46.
[2] Report of Wisconsin Bureau of Labor Statistics, 1885–86, pp. 377, 379, 380.
[3] 30 Fed. Rep. 48.
[4] *Virginia Law Journal*, x, 707; xi, 196, 324; *Criminal Law Magazine*, x, 712.

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The defendants and their associates practically said to the Carrington Publishing Company: "You shall discharge the men you have in your employ, and shall hereafter employ only such men as we shall name. It is true we have no interest in your business, we have no capital invested therein, we are in no wise responsible for its losses and failures, we are not directly benefited by its successes and we do not participate in its profits, yet we have a right to control its management and compel you to submit to our dictation."

It would be hard to compress a greater number of misstatements in an equal number of lines. The truth of the matter, laying aside superficial appearances, is that the employees had an interest in the business, as it was from it they made their living; if they had no capital invested in it, they were investing their labor in it day by day, and this investment was probably quite as important both to them and to the company as an investment of capital; they were responsible for its losses inasmuch as these might lose them their business connection; they were benefited by its successes and they did participate in its profits, in the popular sense, for from what other source were their wages drawn? Moreover, the "right to control its management" and to compel the company to submit to their "dictation," which was the conclusion of the paradox, consisted only in the demand for the exclusion from the shop of those whose actions the great majority of printers considered to be inimical to their common interest. Other elements of the management, such as choice of business location, amount of capital to be borrowed, extent of credit to be given to customers and lines of production to be chosen, were not only unmentioned but undreamed of by the union. If the business is in a certain sense a partnership affair between the employer and the employees, the single claim which was made does not seem an unreasonable demand on the part of one of the quasi-partners.

This idea, that any aggressive action on the part of the employees is an undue interference with the private affairs of the employer and must be punished on his behalf by the public courts, seems to be distinctly a survival from a period when the courts served largely to keep the employed class in subjection to the employing class. In our time we have no desire that the

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courts should perform any such function; and it would seem therefore that the second basis on which the decisions of the courts have been founded is untenable.

In a leading case in Pennsylvania,[1] Judge Gibson defined a criminal conspiracy as follows:

> I take it, then, a combination is criminal whenever the act to be done has a necessary tendency to prejudice the public, or to oppress individuals by unjustly subjecting them to the power of the confederates.

This last characteristic, the oppression of individuals by subjecting them to the power of the confederates, makes the third of the bases of decisions by the courts. The individual oppressed may be a fellow workman, not a member of the union, or he may be an employer. In the case of the non-union workman, it has been held that it is a criminal conspiracy for men to combine to prevent other men who wish to work from doing so; and this dictum certainly seems reasonable. The whole difficulty is in the definition of the word *prevent*. There may of course be actual or threatened violence on the part of the combination; that is, absolute prevention. Such a case does not come into our discussion: it is of course criminal. On the other hand, it has been held by the courts that a mere concerted refusal to work as long as certain men continue to be employed, the well-known strike against non-union workmen, is a criminal conspiracy on the ground of oppression. Between these two extremes lie all gradations of pressure put upon objectionable men by their fellows.

The matter seems clear enough as explained in the recent case of State of Vermont *vs.* Stewart:

> The principle upon which we proceed is that every man has the right to employ his talents, industry, and capital as he pleases, free from the dictation of others, and if two or more persons combine to coerce his choice in this behalf, it is a criminal conspiracy.

Or, as is declared elsewhere in the same opinion:

[1] Commonwealth *vs.* Carlisle, Brightly's Rep. 36.

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An unlawful control over the free use and employment by workmen of their own personal skill and labor at such times, for such prices, and for such persons as they please, is a criminal conspiracy.

But the difficulty is still in the meaning of the expressions, "dictation," "coercion," "unlawful control." Indeed there is a whole group of words used in this connection that seem still to lack legal definition, and yet on whose clear definition depends the whole possibility of rightfully judging. These are, in addition to those above, such words as "menace," "threats," "intimidation." Certainly these have received at the hands of the courts the utmost latitude and even divergence of meaning.

As an instance of coercion about midway between the least and the most oppressive, may be given the facts elicited in the case of State *vs.* Stewart.[1] Here the men considered to have been oppressed were informed by representatives of the union that the works in which they were about to seek employment were "scab" shops; that if they took work there their names would be published in the "scab" list in the trade journal; that they would be shunned and not allowed to work with others of their trade, and would be disgraced in their craft.

What amount of pressure put upon an individual workman by a combination of workmen shall be considered enough to make the combination criminal; whereabouts in the series of gradations of interference the law shall enter and forbid it, is hard to say. From one point of view it seems that each individual ought to have the utmost freedom of action, and liberty to join or not to join a union without such choice injuriously affecting all his opportunities in life. On the other hand there is real strength in the claim that a whole industrial or social movement should not have its success prevented or jeoparded by the passive resistance of a few who, from selfishness or obstinacy or even, more worthily, from a love of independence or a difference in judgment, refuse to combine with the great mass of those with whom their interests are identical.

It is true then that combinations do exercise coercion over individual fellow workmen; and such coercion is in itself to be

[1] 59 Vt. Rep. 273.

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deplored; but, nevertheless, an amount of good may possibly be accomplished far more than in proportion to the injury inflicted. At any rate the courts should be reluctant instead of eager to interpose to support individualistic rather than altruistic action.

But the individual whom the action of a combination is supposed to oppress may be not a fellow workman but an employer. This aspect of coercion brings up immediately as its prime characteristic the boycott. The boycott is an instrument by which greater pressure is put upon an employer who cannot be induced to comply with the demands of the labor organizations by means of the ordinary strike. It does this by inducing as many persons as possible to withdraw their patronage from the employer with whom the contest is being carried on. In the means taken to make the boycott thus effective there is the same latitude and variety as in the attempted coercion of individual workmen, ranging all the way from forcible prevention of trade to a mere request to join in a temporary withdrawal of patronage. The criminality of such action has been looked upon quite differently by different judges. In cases in Wisconsin [1] and Virginia,[2] and in a case before the United States District Court in New York,[3] the boycott was condemned *in toto*, as a criminal conspiracy; while in cases in the New York state courts,[4] and in the important case of State *vs.* Glidden [5] in Connecticut, the extent to which boycotts are legal and the point at which they become criminal are clearly and on the whole liberally defined.

But the particular points of these decisions need not be discussed here; for whatever may be true of the element of criminality in the boycott, the element of conspiracy is certainly obscure. Back of the question of how much oppression a boycott, considered as a conspiracy, exerts on the employer, stands the preliminary question whether the boycott belongs properly under the category of conspiracies at all.

[1] See Report of Wisconsin Bureau of Labor Statistics, 1885–86, pp. 377, 379, 380.

[2] See *Virginia Law Journal*, x, 707–9, xi, 196–202, 324–331; and *Criminal Law Magazine*, x, 712.

[3] Old Dominion Steamship Co. *vs.* McKenna *et al.*, 30 Fed. Rep. 48.

[4] People *vs.* Kostka, N. Y. Cr. L. Rep. 4, 428; People *vs.* Wilzig, 4 *Id.* 403.

[5] 55 Conn. Rep. 46.

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A boycott consists in the withdrawal, for a certain purpose, of the patronage of the person or persons initiating it and of as many others as he or they can induce to join them. A boycott is indeed generally begun by a group of persons or by an organization; but since the withdrawal of patronage is the effective action, the conspirators are, properly, all who take part in such withdrawal. The weakness of the element of conspiracy can be seen from the fact that a boycott might be initiated as well by a single person as by a combination. If such a person should state his grievance publicly and ask for support of this kind, those most likely to respond would of course be members of workingmen's organizations; but it might readily be that large numbers of the general public would sympathize with his position and withdraw their custom according to his request. This action would be a true boycott, both according to common usage of the term and from its including all the essential, though certainly not all the usual elements of that action. In such a case, would the initiator, the members of labor organizations and a section of the general public be subject to an indictment for conspiracy to oppress an individual? And yet these are all equally and similarly involved except the first individual; and a single person, of course, cannot be guilty of a conspiracy. Indeed more active measures of boycotting might be introduced, such as the distribution of circulars, recently declared, in a case in Milwaukee,[1] to be illegal when connected with a boycott, without the element of conspiracy having any proper part to play whatever.

Very much such a case as that suggested above as a possibility occurred in Wisconsin in 1886, where one of the lecturers of the Knights of Labor, in the course of his speeches throughout the state, advised the boycotting of two cigar manufacturers. As there was no combination in existence he was indicted in this case under a state statute against threatening; but subse-

[1] See Report of Wisconsin Bureau of Labor Statistics, 1885–86, pp. 282, 377. Although, in this case, a combination existed among the bakers, yet the circulars were distributed by one man alone, and the appeal to the public gained no character from the existence of the combination which it would not have had if inaugurated by an individual.

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quently, when a branch of the Knights of Labor had been organized and had taken up the very same action, he, along with several others, was prosecuted for conspiracy.[1] The effectiveness of this boycott, in the second period as in the first, depended not on the existence or the completeness of a combination, but on the degree to which third parties, the public appealed to, would agree to the action advised.

On the other hand, the form of coercion previously discussed (that of a workman by his fellow workmen), would be inconceivable without the existence of a combination, and on the completeness of the combination would depend the success of the coercion, irrespective of any third parties. This consideration would seem sufficiently to differentiate the two forms of coercion, and to call into question the propriety of choosing the comparatively unessential element of the boycott, the combination which initiates it, as the especially criminal element.

It is true that in the majority of the boycotts that have occurred, and in the great majority of the cases that have been brought to trial, a combination has existed; and in some the conspiracy has been the important, indeed, the effective part;[2] but in many other cases the combination of persons has had little influence, as such, on the result.[3] A type of the latter kind of boycott is that which has been in existence for some time in Philadelphia, declared by the Typographical Union against one of the evening papers. The whole number of members of the union is scarcely more than a thousand, and the withdrawal of their patronage scarcely affects the paper; accordingly, in addition to requests to labor unions to unite with them, they have issued cards, papers and other forms of statement of their grievances, appealing to the public to support their demands. Here the combination exists, but acts scarcely otherwise than as a single person stating his case.

[1] See Report of Wisconsin Bureau of Labor Statistics, 1885-86, p. 275, case of Robert Schilling.

[2] *E.g.*, the Theiss boycott in N.Y., the Baughman Bros. boycott in Richmond, and the Brace Bros. boycott in Pittsburgh.

[3] *E.g.*, the Landgraff and Gray boycotts in N.Y., and boycotts against bakers generally.

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The idea of the common law in relation to conspiracy was that a combination had characteristic powers different not only in degree, but in kind, from those which an individual could possibly exercise. Labor unions, in all the forms of their action previously discussed, conform more or less completely to this requirement, but the action of a union in a boycott does not. The combination initiates the coercion but cannot consummate it. It is therefore a matter of fair question whether the boycott has been properly treated as a conspiracy, and this irrespective of the question of its criminality.

The punishment of boycotts as conspiracies may be accounted for as a sort of legal chance. Objectionable actions emanating from labor organizations had been punished in the past as conspiracies. This new phenomenon of the aggressive boycott also took its origin from the labor organizations. Moreover there seemed generally to be no other law under which it was criminal. What more natural than to seize upon an evident (although not the most essential) element of the action, and to treat the boycott also as a criminal conspiracy?

The question of the criminality of the boycott, however, may be made to rest on other grounds, and if made criminal by definite legislative enactment, it may still be punished without the necessity of forcing it unnaturally under the old common-law crime of conspiracy. That the excesses of the aggressive boycott must be restrained by law is no doubt true. It is also true that the needful restraint may be imposed both more effectively and more justly by means of statutes specially adapted to the circumstances, than by means of legal rules that are applicable only by a species of chance and by a stretch of construction.

Taking a broad view, then, of the whole treatment of criminal conspiracies and boycotts by the courts, it would seem that, in the first place, the point made of "restraint of trade" is in one aspect mistaken, in another insignificant. The second point, that any action of the combined workmen looking towards a sharing of the administration of the business with the employer is an unlawful interference, is based on a wrong

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conception of the relations of the two parties directly concerned in production. The third basis of the decisions, that the power of the confederates may subject individuals to an oppressive control, when it refers to individual workmen should be acknowledged as valid, but should be applied from a broad social point of view. But when it refers to action oppressing an employer, that is, to the boycott, this action is placed in a class of offences to which it does not properly belong.

If these statements are correct and the criticism tenable, the logical result, and the result most to be desired, would be to remove all offences arising from disputes between employers and employees from the domain of the common law, and to subject them to statutory definition and regulation. This has been practically the outcome of the matter in England, where it has been enacted that no agreement to do an act in furtherance of a trade dispute shall be indictable as a conspiracy unless that act is punishable as a crime when committed by an individual. The judges are, perhaps, above every other class, naturally unfitted for performing the function of law-makers in regard to such subjects. And this is said although the writer returns from a careful reading of all the decisions in these cases strongly impressed with the general good feeling and effort at fairness shown by the occupants of the bench. Indeed, in a recent case in Connecticut,[1] the court applied the doctrines of conspiracy to employers with the same severity as to employees. It is not a matter of good or bad feeling; it is a matter of intellectual fitness in this particular direction. Accustomed to relying on and looking to precedent, the judges do not readily recognize the continuous development and progressive change of social relations. Making "the law" itself an entity, they tend to forget that it ought to be only the expression of existing social relationships.

The statutes which are to take the place of the common law in this field should not be mere transcriptions of the common law, such as this portion of the penal code of New York, and the provisions of some other states, but laws carefully drawn,

[1] State *v.* Opdyke, Carson's Law of Criminal Conspiracies, p. 176.

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widely discussed, and based upon a recognition of existing conditions. These laws should conform to a few general requirements. One of these is that they should be absolutely free from the character of class legislation. In Wisconsin in 1887, two laws were passed contemporaneously, one against blacklisting, the other against conspiracy and boycotting. The punishment in the first case — that is, for blacklisting on the part of the employers — was made to be imprisonment for not more than one month, or a fine not less than $50; in the second case, for the corresponding offence of the workmen, the punishment was imprisonment for not more than one year, and a fine not more than $500. Comment is unnecessary. Again, the laws should be conceived not so much to favor property as to favor men, for whom property exists; not so much, moreover, to protect production as to regulate and equalize distribution.

Finally they should be so drawn as to favor, not to antagonize labor organizations. The condition of the industrial world at the present time is far from satisfactory; the prospect for the future is doubtful. Among the more hopeful elements in the possible solution of the problem are the existence, the development, the elevation, the growth in wisdom and strength of the labor organizations; the survival of the best forms of those societies, and the increasing prominence and influence of the better elements, personal and ideal, in each society. This being so, the old antagonism of the law should now be withdrawn, and the fullest opportunity be given for the labor organizations to develop their possibilities.

E. P. Cheyney.

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ROTATION IN OFFICE.

THE transfer of political power has been, I believe, always accompanied by a struggle among the followers of the transferee for a share in the appanage of power. "To the victors belong the spoils" is no new cry. The shouts of the victors and the plaints of those whom they despoil have always been as audible in politics as in war; and the histories of modern times and the lives of modern statesmen abound in accounts of the struggles and intrigues for honors and places and of the consequences of their success or failure. Lord Palmerston, for instance, in turning over the Foreign office to one of his successors, said: "You will be struck with one very curious circumstance; namely, that no climate agrees with an English diplomatist, excepting that of Paris, Florence, or Naples."[1] Lord Malmesbury, on taking the same office, regretted being obliged to dine at his club, "where I am surrounded by discontented faces, and worried by those who want places."[2]

With us in the United States, this "worry" about places has assumed colossal proportions. Every person actively interested in politics is compelled, in a greater or less degree, to engage in the scramble for the offices. Since the Rebellion, in particular, the vast number of places open to office seekers and their ways of seeking have occupied an inordinate share of public attention. The principal topic of conversation in this country, since the recent inauguration, has been the appointments, or the candidates for appointments, to office. Prior thereto, the newspapers devoted at least a column a day to the visitors to Indianapolis, and to speculations as to what they told Mr. Harrison about appointments to the offices soon to be within his gift and the probability of his following their advice. Every four years the same thing goes on. In 1884 a similar pilgrimage set in to

[1] Memoirs of an ex-Minister, by the Rt. Hon. the Earl of Malmesbury. March 11, 1852.

[2] *Ibid.* Feb. 26, 1858.

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Albany, and we all remember the excitement over the visitations to General Garfield at Mentor. Doubtless many of these visitors were statesmen and politicians, in the proper sense of that word; but by far the greater number were the heirs of the daughters of the horse-leech. Nor do they concern themselves merely with the political offices. They are interested in every office: from that of secretary of State to that of consul at Zacetetas; from that of collector at the Golden Gate to that of postmaster at Hyannis; and until one has seen the system of office seeking in operation, he can form no conception of its evils and absurdities. A friend of mine was talking not long ago with a President, in the library of the White House, soon after he entered office, when a sheaf of cards was brought up. The President, picking out one, said: "Well, I suppose I must see this man"; and presently up came Senator A, attended by a dozen men and their wives. After a few words of introduction to the President, the senator drew him aside, literally by the button hole, and, after a few moments earnest conversation, rejoined his party, which shortly withdrew. Then the President turned to my friend, with a look of utter weariness and disgust, and said: "That sort of thing goes on from nine o'clock in the morning till five o'clock in the afternoon; I have no time to do anything. Sometimes they come, like Senator A, with their constituents, to pay their respects as they call it, but they never go away without saying something about office."

The size of the evil may be estimated by considering the number of appointments which an administration makes. That of Mr. Cleveland, for instance, is said[1] to have made, during the first two years and three months of its existence, 42,992 appointments out of a possible 56,144. President Harrison's administration is beset like that of his predecessor with place-hunters. At the time this is written, in April, he is described as worn and paled by their pertinacity. His secretary of the Treasury has complained that they leave him no time for public business; and no spectator, with any opportunity for knowing what was going on, could have been in Washington either this

[1] Senator Hale, in U. S. Senate, Congressional Record, Jan. 11, 1888.

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spring or four years ago without being amazed at the number, the anxiety, the clamor and, above all, the sickening want of self-respect of the office seekers. Mr. Harrison may be expected to make at least as many appointments as Mr. Cleveland; and it is safe to assume that in the case of every appointment a choice has to be made between several applicants. When one considers the time and toil expended in making these appointments, it is easy to see that what was to Lord Malmesbury a mere "worry about places" has, in this country, attained the stature of a great public evil. That it is so is now recognized, in private, by the leaders of both political parties. Members of Congress, politicians who have been in office and government officials generally have begun to regard office seeking and office mongering as an unnecessary and unbearable evil.[1]

A very large number, however, of citizens who are entitled to respect stoutly deny that there is any evil, and hold that the thing complained of is the proper and necessary consequence of government by parties, because, as they fallaciously suppose, government by party requires that each individual instrument of government must be a partisan. As a corollary to this notion, some of them conclude that every partisan is entitled to share in the government by holding an office, and consequently, as there are not enough places to bestow upon each partisan, that the offices should be rotated among them. In one or the other of these ways, these respectable citizens arrive at a belief in what Silas Wright called, and what most of them believe to be, a cardinal republican principle, namely, "rotation in office." These good people, or at least such of them as edit newspapers, have made a shibboleth of "rotation in office," by which their neighbors' democracy and, forsooth, their neighbors' "Americanism" may be tested. They hold that the statute by which the terms of certain officers were limited to four years, thus facilitating rotation in those offices and making a "clean

[1] "No boon so great could be conferred upon senators and representatives as to relieve them from the worry, the annoyance and the responsibility which time and habit have fixed upon them in connection with the dispensing of patronage, all of which belongs, under the constitution, to the executive." Jas. G. Blaine, Twenty Years of Congress, vol. ii, p. 651.

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sweep" possible for each administration, embodies a fundamental principle of republican government. Certain other people, taking the world as they find it, regard this statute as a partial remedy for the existing evils, because it fixes an officer's term for four years and thus, as they say, prevents a clean sweep and "lets each man stand upon a law."[1] All these respectable classes therefore agree that the statute referred to should on no account be repealed.

It is the purpose of this article to show that these views are wrong, and particularly to endeavor to show, to the classes first mentioned, that "rotation in office" is not a republican principle at all; that the phrase, in the sense in which it is now used, is distorted from the meaning put upon it by the founders of the Republic; that the statute which creates vacancies every four years has been, in effect, the corner stone of the spoils system; that it is not a good remedy for anything, and that it ought to be repealed; that the objections both to such repeal and to the restoration of the system of tenancy in office during good behavior and efficiency, which the repeal would partially effect, are fanciful and baseless.

It is indeed a democratic idea that "public offices and dignities should be open to all." The logical extreme of that idea is visible in the Athenian democracy, where most offices were given by lot and the principle of a discriminating election was rejected as an aristocratic institution. But even in Athens there must have been harbor masters at the Piraeus and surveyors and architects in the department of public works who were not changed with every demagogue; and neither in Athens nor anywhere else, outside perhaps of the Senate of Laputa, has it ever been proposed, until our own time, that all the offices in a state should be frequently redistributed. The *reductio ad absurdum* is applied to the popular political view, quite unconsciously, by a writer in the *North American Review*, who said, in 1883:

> The possession of office educates, confers dignity; with a reasonable rotation, every citizen of political aspirations and experience who reaches

[1] This was, I believe, the late President Garfield's notion, and the phrase quoted was used by him in expressing his own views.

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middle life and conducts himself well [*i.e.* about nine millions of us] may hope to crown his family with the reflected honor which office confers.

The framers of this government entertained no such ideas. They made the executive elective, to satisfy the democratic principle, and they provided for frequent elections of congressmen for the same reason. But it is clear from everything which all of them said about change, or rotation, in offices, that they had in mind only those which they had thus made elective, and the few others which stood in a confidential relation to the executive. Washington said:

> The spirit of the government may render a *rotation in the elected officers* of it most congenial with the ideas [the people have] of liberty and safety.[1]

John Adams in numerous places expressed a similar view.[2] Jefferson said:

> Rotation is the change of officers required by the laws at certain epochs and in a certain order. This is the just and classical meaning of the word. But in America we have extended it (for want of a proper word) to all cases of officers who must necessarily be changed at a fixed epoch, though the successor be not pointed out in any particular order, but comes in by free *election*. By the term rotation in office, then, we mean an obligation on the holders of that office to go out at a certain period. In our first confederation, the principle of rotation was established in the office of president of congress, who could serve but one year in three, and in that of a member of congress, who could serve but three years in six.[3]

What, however, is more to the point than the theories of our early statesmen is the fact that their practice quite conformed to their theories. There was no rotation in their time, except in the elective offices. During the forty years of the administrations of the first six Presidents, there were altogether, outside of the cabinet, only eighty-two removals from office. Of these, Washington made nine; John Adams, nine; Jefferson, forty-

[1] Letter to Madison, May 20, 1792. Works, vol. xii, p. 383.
[2] Life and Works of John Adams, vol. iv, p. 208; vol. vi, pp. 52–58; vol. ix, p. 339.
[3] Works of Thomas Jefferson (Phil. 1871), vol. iii. p. 18; *cf.* also vol. ii, p. 330.

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seven; Madison, five; Monroe, nine; and J. Q. Adams, two.[1] All of these removals were, or were alleged to be, made for cause. With the administration of Jackson came the departure from the principles upon which the government had been erected and theretofore conducted. He, in his first message, announced that rotation was "a leading principle in the republican creed"; and he showed what he meant by "rotation" by making, during the first two years of his administration, ten times as many removals as all his predecessors had together made during forty years. His leading supporters in this new departure were Van Buren, Marcy, who formulated the new doctrine,[2] and Silas Wright. These men received their political training in New York, during the period when the council of appointment, following the direction first given it by Aaron Burr, ran riot; and it is therefore interesting and pertinent to see what sort of training they got.

For forty-three years prior to 1827, the council of appointment of New York, consisting of the governor, *ex officio*, and four senators elected annually by the lower house of the legislature, exercised the whole appointing power of the state. It appointed, at the last, all the militia officers, more than eight thousand in number, and six thousand six hundred and sixty-three civil officers, in which number were included mayors of the cities, sheriffs, justices of the peace, notaries, auctioneers, judicial officers, as well as the whole proper administrative force. It wholly prostituted its power to partisan ends. During the final struggle between the Federalists and their opponents, each council, as it passed from the control of one party to another, undid everything of importance done by the preceding council. The principal offices of the state — those of attorney-general and state treasurer — the New York mayoralty even, and in

[1] J. G. Blaine, Twenty Years of Congress, vol. ii, p. 647.

[2] "It may be, sir, that the politicians of the United States are not so fastidious as some gentlemen are, as to disclosing the principles on which they act. They boldly preach what they practice. When they are contending for victory, they avow their intention of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim, as a matter of right, the advantages of success. They see nothing wrong in the rule that to the victors belong the spoils of the enemy." Congressional Debates, vol. viii, part i, p. 1325.

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particular the office of recorder of New York city, were made mere shuttle-cocks of faction. The council of appointment gave the people of New York a real rotation in office; it showed Jackson's notions reduced to practice; and there is no more instructive reading for those who think they are believers in "a clean sweep" than the record of its performances. Finally, it became so intolerable that in the convention of 1821 not one voice was raised to defend it. The vote to abolish it was unanimous.[1] The evil it did, however, long survived it; indeed, survives it still.[2]

The New York politicians, under the lead of those above named, carried to Washington the lessons they had learned from the operations of this council; and to them is to be traced Jackson's departure from the old established ways. What the generation of statesmen preceding these New Yorkers would have thought of Jackson's departure and of the revision of their creed, we can only imagine; but Madison, the one of them living, writing under date of August 29, 1834, said:

> You call my attention, with much emphasis, to the principle openly avowed by the President and his friends, that offices and emoluments were the spoils of victory, the personal property of the successful candidate for the presidency, to be given as rewards for electioneering services and in general to be used as the means of rewarding those who support, and of punishing those who do not support, the dispenser of the fund. I fully agree in all the odium you attach to such a rule of

[1] Carter and Stone, Proceedings of the Convention of 1821, pp. 296 *et seq.*

[2] Jabez Hammond, the best historian of New York, said: "I have remarked that the principal cause why party spirit has raged more in this than in any other state of the Union was the peculiar organization of the appointing power under the constitution of 1777. A review of our politics will, I believe, satisfy all intelligent and reflecting men that the proposition is strictly true. The cause being removed, the effect must cease. True it is that this result was not immediately obvious. Factions did prevail after the adoption of the amended constitution. But men had been *so long habituated to act politically from the hope of reward and fear of punishment* that, after the means of rewarding and punishing were taken from the hands of the party in power for the time being, many aspirants to office still continued to act as if no change had been made in the principles of the government, and of course cabals were formed and factions occasionally existed. But these commotions grew out of an impulse produced on the public mind by the habit generated under the old government. The ocean after a storm will continue to be agitated, and its waves run high long after the tempest has subsided; but in time it will become quiet and placid." Political History of New York, vol. ii, pp. 78, 79.

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action. . . . The principle, if avowed without the practice, or practised without the avowal, could not fail to degrade any administration; both together, completely so. The odium itself would be an antidote to the poison of the example, and a security against the permanent danger apprehended from it.[1]

Our subsequent political history has shown that Madison miscalculated the relative force of the power of patronage and of the odium attaching to its abuse, which he thought would be sufficient to restrain its exercise.

The statute which has been referred to as facilitating rotation in office and which was the most efficient instrument for the change in administrative methods which Jackson introduced, was enacted in 1820. That statute, together with certain extensions of it,[2] limits to four years the terms of office of all the more important officers of the government, such as district attorneys, collectors, postmasters confirmed by the Senate, and the territorial officers; and, further, makes those terms expire shortly after the date of a President's inauguration. The reason which has generally been given for its passage was the necessity of providing for an accounting by those officers who ought to account; and that reason undoubtedly existed; but the effect of the statute was very different from what could have been supposed by any one who voted for it for that reason alone. It ought, really, to have been entitled an act to provide vacancies in office for incoming Presidents to fill. It legalized and made easy "rotation in office"; and the history of the act given by John Quincy Adams indicates that this was its real purpose. He says that a congressman made inquiries respecting the principle of reappointment to offices of which the term was limited to four years, and he continues:

I told him that the act of Congress of 15th May, 1820, by which all the offices employed in the collection of the revenue were thus limited, had not answered the purpose for which it was intended; that the ostensible object, under color of which it had been carried through Congress, had been to secure the accountability of those offices, for which other

[1] Madison, Works, vol. iii, pp. 336, 357.

[2] These acts are now together incorporated in sections 769, 1864, 2217, 2244, 2613 and 3830 of the U.S. Revised Statutes.

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enactments would have been much better suited; that its real and immediate object was to promote the election of W. H. Crawford as President of the United States in 1825. It placed the whole body of executive officers of the general government throughout the Union at the mercy, for their continuance in office, of the secretary of the Treasury and of a majority of the Senate. It was drawn up by Mr. Crawford, as he himself told me. It was introduced into the Senate by Mahlon Dickerson, of New Jersey, then one of his devoted partisans; and its design was to secure for Mr. Crawford the influence of all the incumbents in office, at the peril of displacement, and of five or ten times an equal number of ravenous office-seekers, eager to supplant them.

This object succeeded so far as to enlist a multitude of most active electioneering partisans in Crawford's cause. The custom-house officers throughout the Union, the district attorneys, marshals, registers of the land offices, receivers of public moneys, paymasters in the army, and all their family connections, were ardent Crawfordites. The Senate was conciliated by the permanent increase of their power, which was the principal ultimate effect of the act, and every senator was flattered by the power conferred upon himself of multiplying chances to provide for his friends and dependants. But the gravity of the mass was disproportioned to the length of the lever. Mr. Monroe unwarily signed the bill without adverting to its real character. He told me that Mr. Madison considered it as in principle unconstitutional. He thought the tenure of all subordinate executive offices was necessarily the pleasure of the chief by whom they were commissioned. If they could be limited by Congress to four years, they might to one — to a month — to a day — and the executive power might thus be annihilated.

Mr. Monroe himself inclined to the same opinion, but the question had not occurred to him when he signed the bill. The result of the act has been to increase the power of patronage exercised by the President, and still more that of the Senate and of every individual senator.[1]

The very day after his inauguration, Adams also records in his diary that he had made certain nominations which had already been made by Monroe, but which the Senate had not confirmed, and adds:

Efforts had been made by some of the senators to obtain different nominations, and to introduce a principle of change or rotation in office at the expiration of these commissions; which would make the government a perpetual and unintermitting scramble for office. A more pernicious expedient could scarcely have been devised.[2]

[1] J. Q. Adams, Works, vol. vii, pp. 424–425. [2] *Ibid.* vol. vi, pp. 520, 521.

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The congressional records bear out this account of the origin and passage of the bill.[1] There is no record of any discussion of it whatever, and no evidence that it attracted any attention in either House of Congress. Outside of Congress, however, it was quickly noticed by a keen-visioned old man, of whose almost passionate love of America there is no question, and who has been made an object of political idolatry by a clear half of the very persons who now rage most like heathen at all proposals such as the repeal of this law — Thomas Jefferson. He, a few months after the passage of the law, writing to Madison, thus spoke of it:

. . . . the late mischievous law, vacating every four years nearly all the executive offices of the government. It saps the constitutional and salutary functions of the President, and introduces a principle of intrigue and corruption which will soon leaven the mass, not only of senators, but of citizens. It is more baneful than the attempt which failed in the beginning of the government, to make all officers irremovable but with the consent of the Senate. This places, every four years, all appointments under their power, and even obliges them to act on every one nomination. It will keep in constant excitement all the hungry cormorants for office; render them, as well as those in place, sycophants to their senators; engage these in eternal intrigue to turn out one and put in another, in cabals to swap work; and make of them, what all executive directories become, mere sinks of corruption and faction.[2]

In answer to this letter, Madison wrote:

The law terminating appointments at periods of four years is pregnant with mischief such as you describe. It overlooks the important distinction between repealing or modifying the office, and displacing the officer. The former is a legislative, the latter, an executive function; and even the former, if done with a view of re-establishing the office and letting in a new appointment, would be an indirect violation of the theory and policy of the constitution. If the principle of the late statute be a sound one, nothing is necessary but to limit appointments held during pleasure to a single year, or the next meeting of Congress, in order to make the pleasure of the Senate a tenure of office instead of that of the President alone. If the error be not soon corrected, the task will be very difficult; for it is of a nature to take a deep root.[3]

[1] Annals of Congress, 16th Congress, 1st session, vol. i, pp. 25, 28, 623, 625, 674, 675.

[2] Jefferson, Works, vol. vii, p. 190.

[3] Madison, Works, vol. iii, p. 196.

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A few days afterwards, in a letter to Monroe, Madison referred to the subject again, and said:

> Is not the law, vacating periodically the described offices, an encroachment on the constitutional attributes of the executive? The creation of the office is a legislative act; the appointment of the officer, the joint act of the President and Senate; the tenure of the office (the judiciary excepted) is the pleasure of the President alone; so decided at the commencement of the government, so acted on since, and so expressed in the commission.[1]

The political history of the country since these letters were written amply justifies the fears their writers entertained. It may now be asserted, without the possibility of intelligent contradiction, that the effect of the operation of the law of 1820 has been to make the status of all the offices affected by it an entirely different one from what it was during the first forty years of the government's existence. The original act and the extensions of it affect at the present time, I believe, about four thousand offices. But that number includes every important postmaster, collector of customs, land agent and district attorney in the service of the government. All of these offices fall vacant shortly after the beginning of a President's term. If, therefore, a man wants one of these offices, or if the executive desires to give it to him, there is no necessity to show cause why the incumbent should be removed. He *is* removed by operation of law, at the end of his term. This, obviously, does away with one of the most effective barriers against the misuse of executive patronage, namely, the necessity of submitting to popular criticism the reasons for an officer's removal before his successor can be appointed. Moreover, besides the offices which are directly affected by the law, a very much larger number of offices and places have come, by virtue of the custom inaugurated by the law, to be considered as likewise falling vacant at the end of each four-years term. The effect of the act has been, therefore, to place at the disposal of every President a great number of ready made vacancies, and thus to increase the volume and influence of executive patronage far beyond the limits originally contemplated for it.

[1] Madison, Works, vol. iii, p. 200.

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The evils of such an increase began very soon to receive attention in Congress. In 1825, a select committee of the Senate, to which had been referred the propositions for a change in the method of electing Presidents, was directed to also examine the expediency of reducing executive patronage. That committee consisted, with four other senators whose names are unimportant, of Messrs. Benton, Macon, Van Buren, Hayne, and Dickerson of New Jersey, the latter the same senator who introduced the act of 1820. This committee reported unanimously a bill to repeal that act. The committee said:

> Without going into an enumeration of statutes which unnecessarily increase the executive patronage, the four-years appointment law will alone be mentioned; for this single act, by vacating almost the entire civil list once in every period of a presidential term of service, places more offices at the command of the President than were known to the constitution at the time of its adoption.[1]

Again, in 1835, a committee on executive patronage brought in a bill for the repeal of the act of 1820, and in their report said:

> So long as the offices were considered as public trusts to be conferred on the honest, the faithful and capable, for the common good, and not for the benefit or gain of the incumbent or his party, and so long as it was the practice of the government to continue in office those who faithfully performed their duties, its patronage, in point of fact, was limited to the mere power of nominating to accidental vacancies, or to newly created offices, and could, of course, exercise but a moderate influence either over the body of the community or of the office holders themselves. But when this practice was reversed; when offices, instead of being considered as public trusts to be conferred on the deserving, were regarded as the spoils of victory, to be bestowed as rewards for partisan services, without respect to merit; when it came to be understood that all who held office held by the tenure of partisan zeal and party service, — it is easy to see that the certain, direct and inevitable tendency of such a state of things was to convert the entire body of those in office into corrupt and supple instruments of power, and to raise up a host of greedy and subservient partisans, ready for every service, however base and corrupt. Were a premium offered for the best means of extending to the utmost

[1] Congressional Debates, vol. ii, part ii, appendix, p. 132.

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the power of patronage, to destroy the love of country and to substitute a spirit of subserviency and man-worship, to encourage vice and discourage virtue, no scheme more perfect could be devised; and such must be the tendency of the practice, with whatever intention adopted or to whatever extent pursued.

As connected with this portion of the inquiry, your committee cannot avoid adverting to the practice similar in its character and tendency, growing out of the act of May 15, 1820, which provides, among other things, that from and after its passage all district attorneys, collectors, and other disbursing officers therein mentioned to be appointed under the laws of the United States, shall be appointed for the term of four years. The object of Congress in passing this act was, doubtless, to enforce a more faithful performance of duty on the part of the disbursing officers by withholding reappointments from those who had not faithfully discharged their duty, without intending to reject those who had. At first, the practice conformed to the intention of the law, and thereby the good intended was accomplished without materially increasing the patronage of the executive; but a very great change has followed, which has, in the opinion of your committee, defeated the object of the act, and at the same time added greatly to the influence of patronage. Faithful performance of duty no longer insures a renewal of appointment. The consequence is inevitable: a feeling of dependence on the executive on the part of the incumbent, increasing as his term approaches its end, with a great increase in the number of those who desire his place; followed by an active competition between the occupant and those who seek his place; followed by all those acts of compliance and subserviency by which power is conciliated, and, of course, with a corresponding increase of the number of those influenced by the executive will.[1]

The committee which made this report, consisted of Calhoun, Southard, Webster, Benton, Bibb, and King of Georgia.[2] The bill which they reported, for the repeal of the four-years law, was passed by a vote of 31 to 16,[3] every one of consequence then in the Senate voting in the majority, except Silas Wright and Buchanan. In the following year a similar bill was again passed by the Senate.[4] Upon each of these occasions the language used in debate, especially in 1835 by Clay, Benton, Web-

[1] Congressional Debates, vol. xi, part ii, appendix, p. 220.
[2] *Ibid.* vol. xi, part i, p. 109.
[3] *Ibid.* vol. xi, part i, p. 576.
[4] *Ibid.* vol. xii, part i, p. 367.

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ster, Calhoun, Ewing and Southard, was stronger than the language of the reports. Benton, writing many years subsequently, says:

> The four-years limitation law was found to operate contrary to its intent, and to have become the facile means of getting rid of faithful disbursing officers instead of retaining them. . . . There is a practice grown up in these latter times, which, upon every revolution of parties, makes a political exodus among the adversary office holders, marching them off into the wilderness and leaving their places for newcomers.[1]

So far as concerns the evils of executive patronage, nothing can be added to what is said in the report of the senatorial committee in 1835 and by the senators in the debate above referred to; although, in view of the election of Mr. Harrison, a reference to the inaugural of his grandfather, in which the evils of patronage in 1841 are alluded to, is of interest.[2] Since the date of Calhoun's report these evils have enjoyed a rank growth and assumed a somewhat different form. Congressmen have been admitted to share in the distribution of the spoils, and their opposition to the evils of executive patronage has diminished in consequence.

As the country has grown, the number of offices has so increased that it is an impossibility for the President or the heads of departments to have personal knowledge of more than a small number of their appointees. Naturally enough, senators and representatives were at first called upon for recommendations as to appointments and for certificates as to the standing and deserts of proposed appointees. From the discharge of that function, they passed easily to the notion that their recommendations *must* be followed, and that they had the *right* to direct to whom the offices within their districts or states should be given. In time, the rights so claimed were virtually conceded to them. The patronage of the executive was thus partially distributed among the congressmen. The result has been to introduce, exactly as Jefferson foresaw, "a principle of intrigue

[1] Benton's Thirty Years' View, vol. i, pp. 82–85.

[2] Congressional Globe, 26th Congress, 2d Session, vol. vii, pp. 233, 234.

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and corruption," which has leavened both senators and citizens. Congressmen and senators have established an almost feudal relationship between themselves and those of their constituents who hold, or desire to hold, office. Within the last two months we have seen the representatives and senators of a state solemnly meeting and deciding who should be appointed to the federal offices within that state, or uniting in a letter to the President stating how many offices should be given to their state. A presidential election, from the small office holders' point of view, is not so much a contest between political parties over questions of policy, as a contest the result of which will be that, if their party does not succeed, they will lose their places and wages. For office holders, a vote for the party which put them into office is a defence of their incomes. For those who seek office, the whole government service is a prize to be won. For politicians, the patronage which they can promise or bestow is one of the most effective means for influencing elections. In the minds of those who seek office, of those who hold office and of those who have offices in their gift, the public service of the United States has become a vast bribery fund.

From the time of Calhoun, Benton and Clay to that of Thomas Jenckes, in 1868, the evils of patronage were overshadowed by the war and the great questions preceding and growing out of it. Within the past decade or two, however, they have again commanded attention. The civil-service reform movement was organized to combat them. Following upon the assassination of Garfield, the civil-service reformers secured the passage of a law (known as the Pendleton bill) providing for admission to the lower grades of the government service through competitive examination. This law now regulates admission to about 20,000 offices, and serves in some degree as a means of "relieving" senators and representatives from the "worry" about offices, which Mr. Blaine thought would be such a "boon." In other (perhaps more important) ways this law is successful and valuable. But it does not go to the root of those evils of patronage which Jefferson and Madison foresaw, and which Calhoun, Benton, Webster and Clay endeavored to

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remedy. That can be done only in the way which they proposed, and which the civil-service reformers now propose, by repealing the four-years law for the creation of vacancies, abolishing rotation in administrative offices and restoring the early practice of the government.

The objections to this repeal of the four-years law are so seldom formulated that they are a little elusive, but they may be gathered from the columns of certain newspapers which are pleased to consider themselves ultra-democratic and from the debates in the House of Representatives in 1884, when the subject for the first time came up in that body[1] on the report of a committee recommending the repeal of the act of 1820. These objections rest, for the most part, upon the notion that rotation, not only in elective but also in all administrative offices, is a cardinal republican doctrine, and that tenure during good behavior is "contrary to the spirit of our institutions." This objection, I consider, is shown by the authority of Jefferson and Madison, by the history of the four-years law itself and by the history of the first forty years of the government's existence, to be fanciful and without reasonable foundation. One phase of this objection — that which anticipates the establishment of an aristocracy of office holders unless, as Benton said, they are all marched off in the wilderness every four years and their places left vacant for new appointees — is admirably though something too seriously treated in a paper in the *Cyclopedia of Political Science*, on the danger of such an aristocracy.[2]

A second objection to the repeal of the act of 1820 is the purely political one, that such a repeal would give an undue advantage to the party in power by confirming all its appointments indefinitely. So long as office holders act under their present illegitimate incentive to political activity, that is, the fear of removal unless they are active partisans, this objection has some validity. But if that incentive were removed, their political activity would become normal and the objection would lose its weight. In any case, it is an

[1] Congressional Record, vol. xv, pp. 3188–3193.

[2] Lalor's Cyclopedia of Political Science, vol. iii, p. 19.

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objection merely to the expediency of repealing the law at any particular time, and does not go to the merits of the repeal. It is like a letter Victor Hugo addressed to an International Peace congress at Geneva, a few years since, in which he expressed an ardent desire for universal peace and good will among men, but pointed out that it must be postponed until after France had had another war with Germany.

A third objection to the repeal is the same as the ostensible reason which was given for the enactment of the original law: the necessity of providing for an accounting from disbursing officers and maintaining the security upon their bonds. But this result is attained in private life without discharging employees when the time comes for an accounting, and there is no reason why it could not be done just as effectually in the public service. The bills proposed by Mr. Mason's committee, in 1825,[1] and by Mr. Calhoun's committee in 1835,[2] which proposed the repeal, are both of them complete answers to this objection.

In conclusion, it may be reiterated that the doctrine of rotation in administrative offices is not in accordance with the spirit of our institutions, but is, on the contrary, a vicious doctrine, on which the spoils system, which is an immense and admitted evil, is founded; that the practice of rotation in administrative offices is based upon the law of 1820 and the laws supplementary to it; that the repeal of those laws is demanded by the weight of authority and by the history of the government, which shows their effects; and that the objections to such repeal are either unreal, captious, or easily to be overcome.

FREDERICK W. WHITRIDGE.

[1] Congressional Debates, vol. ii, part ii, appendix, p. 138.
[2] *Ibid.* vol. xi, part i, pp. 570, 571.

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THE DEVELOPMENT OF THE WHISKEY TRUST.

WHEN one considers the wide-spread interest that all classes of our people have shown within the past two or three years regarding trusts, one need offer no excuse for an attempt to give new facts concerning them. Since the congressional investigation of a year ago, and the somewhat earlier investigation by the New York legislature, the form of organization of the trusts is fairly well understood; but, as yet, comparatively little has been made public regarding the circumstances under which they have been organized, or their real effect. It has been assumed that they are a monstrous evil; that their existence is contrary to public policy, and that the proper way for legislation to deal with them is to exterminate them — destroying not merely the trust but, in some instances, the property rights of all parties concerned. The excessively severe provisions of the bills introduced into Congress and the state legislatures (some of them going so far that, if strictly construed, they would render criminal any agreement on prices by competing merchants) would seem to indicate that a desire for popular favor — or perhaps, in some instances, a desire to make terms with the organization attacked — has inspired them, rather than a careful study of the problem to be solved. On the other hand, some of the articles published in defence of the trusts speak in glowing terms of the benefits arising from association: the more general use of valuable patented inventions, the great saving in the cost of supervision, the steadying of prices, *etc.*, demonstrating clearly the benefits that might arise to consumers from lessened prices; though usually here, too, but one side of the question is fully given.

It is probably too soon to tell with even a reasonable degree of certainty what the outcome of the present tendency towards combination among producers is to be. So far there have been not a few egregious failures, the most noteworthy being the

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collapse of the copper syndicate — though that was hardly a trust, technically speaking; but there have been also a few apparently noteworthy successes. It seems clear, at any rate, that we have still some time to wait before we can say what the resulting normal is to be; and in the meantime it seems best not to be too hasty in exterminatory legislation, in sweeping denunciation nor in unqualified praise, but to study as accurately as is possible the history, management and tendency of the individual organizations, that when the time for action comes we may act with knowledge. The present article is an attempt to describe, as accurately and fully as the information that can be secured will permit, one of the (apparently, at least) most successful of these organizations: "The Whiskey Trust"; more accurately: "The Distillers' and Cattle-Feeders' Trust." The significance and tendency of such an organization as this cannot be understood without a knowledge of the circumstances leading to its formation. In this case, interest is added by the fact that legislation by the United States and by some European nations is, doubtless, indirectly responsible in good part for the condition of business that led to the formation of the trust.

It is well known that, from the establishment of our government till the outbreak of the Civil war, distilled spirits were for the most part comparatively free from taxation by the United States. The tax levied by the recommendation of Alexander Hamilton, which led to the Whiskey insurrection in Western Pennsylvania, was comparatively very light (only 9 to 11 cents per proof gallon, as compared with 90 cents at present), and even this was repealed soon after the accession of Jefferson to the presidency. From that time, with the exception of four years (from 1813, when an increase of revenue was necessary to carry on the war, till 1817), spirits were free until the outbreak of the Rebellion. As a consequence, they were sold at a very low price, — 24 cents on the average in New York for the five years preceding 1862, with a minimum price of 14 cents per proof gallon, — and there was little temptation to overproduction for either the home or foreign market.

At the outbreak of the Rebellion the necessity for increased

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revenue that led to the imposition of internal taxes wherever it was thought that a revenue could be raised, "without much regard to acknowledged politico-economic laws or precedents,"[1] resulted, of course very properly, in the taxation of distilled spirits. The first tax of 20 cents a proof gallon (July 1, 1862) was followed, March 7, 1864, by an act raising the tax to 60 cents per gallon. July 1 of the same year the rate went to $1.50; and January 1, 1865, to $2.00 per gallon.

At each increase of the tax, considerable time intervened before the highest rate was imposed. As a natural consequence, distilleries were run to their utmost capacity, and even new distilleries were built to get a stock on hand.[2] As Mr. H. B. Miller, the president of the whiskey pools, writes:

> Some time intervened before the various amounts were collected, and during this time the distiller and speculator had nearly the whole benefit of the tax without paying it. The speculation in whiskey during this time was tremendous. Editors, ministers, statesmen, — all took a hand. Distilleries were erected all over the country, and at the end of the war there was three times the capacity that could be utilized.

To the same effect David A. Wells, in the article on "Distilled Spirits" in Lalor's *Cyclopedia of Political Science*, writes:

> The immediate effect of the enactment of the first three and successive rates of excise was to cause an almost entire suspension of the business of distilling, which was resumed again with great activity as soon as an advance in the rate of tax in each instance became probable. The stock of whiskey and high wines accumulated in the country under this course of procedure was without precedent; and Congress, by its refusal to make the advance in taxation, in any instance, retroactive, virtually legislated for the benefit of distillers and speculators rather than for the treasury and the government. The profits realized by the holders of stocks, thus made in anticipation of the advance in taxation, has probably no parallel in the history of any similar speculation or commercial transactions in this country, and cannot be estimated at less than $50,000,000.

[1] Reports of United States Revenue Commission, 1865–66, p. 2.

[2] *Ibid.* p. 6: "Thus, for example, the commission estimate that on the 1st of July, 1864, the date when the advance in the tax on distilled spirits of from 60 cents to $1.50 per gallon took effect, there *were made and stored*, in anticipation of this advance, at least forty millions of gallons, or a quantity sufficient to supply the wants of the country for at least a year in advance."

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d products on hand
ble for distillers who did not practise frauds on the revenue
ntinue in business. The high taxes, however, led to such
ls that whiskey often sold in the market for less than the
unt of the tax.

nother factor that contributed to the general depression
the lessened demand for alcohol for use in the arts and
nufacture. With alcohol at 30 or 40 cents a gallon, it was
d in large quantities for the manufacture of burning fluid,
nishes, furniture polish, perfumeries, patent medicines, even
fuel for cooking, *etc.*; the United States revenue commission
imating that in 1860 not less than 25,000,000 gallons of
oof spirits were so used. When the tax was $1.50 and $2.00,
even 50 cents, as it was from 1868 to 1872, spirits, of course,
came too expensive for such purposes. As the tax has been
ill higher since that date (70 cents till 1875, and 90 cents
nce that time), no increased demand for such purposes has
een felt.

These causes, including the large amounts fraudulently manufactured in the earlier years of the high taxes, had tended to keep the distilling business in a comparatively depressed condition after the speculative period following the war had passed. Even as early as 1870 or 1871 the distillers felt themselves compelled to enter into an agreement to limit their distilleries to two-fifths production; and all north of the Ohio, with two or three exceptions, made such an agreement. No very decisive effect, however, was produced by this arrangement. The facilities for manufacturing adapted themselves gradually to the demand; and, on account of our cheap grain, a fair export trade was growing up that relieved the situation somewhat. But in the years from 1878 to 1882, on account of successive crop failures in Europe, a very heavy export demand at paying prices sprang up. In 1879, 1880 and 1881, nearly 16,000,000 gallons a year were exported.

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	(proof) gallons exported.	of production.	Year.	Taxable (proof) gallons exported.	Perc of duct
1873	2,358,630	3.45+	1881	15,921,482	13.5
1874	4,060,160	5.90+	1882	8,092,725	7.6
1875	587,413	0.96+	1883	5,326,427	7.1
1876	1,308,900	2.25+	1884	9,586,738	12.7
1877	2,529,528	4.22+	1885	10,671,118	14.24
1878	5,499,252	9.80+	1886	5,646,656	7.02
1879	14,837,581	20.63+	1887	2,223,913	2.85
1880	16,765,666	18.55+	1888	1,514,205	2.15

To meet this demand many new distilleries, including some the largest in the country, were built, while the old ones, course, were run at full capacity. After 1880, good crops i Europe, poor crops at home, with some changes in the tari laws[2] of leading European countries, especially discriminatin duties against the United States, cut off this demand, and lef the distilleries of this country with a capacity sufficient to produce four times what the home market needed.[3]

Of course, there was, at first, great over-production, and consequent distress among distillers. They could not export except at a loss; their cattle were in the barns (the feeding of cattle on the slop from the distilleries is one important adjunct to the distilling business), so that it was difficult to close the distilleries; their warehouses were filled with goods, and the market was broken. Something must be done.

[1] Report of the Commissioner of Internal Revenue, 1888.

[2] René Stourm, L'Impot sur l'alcool dans les principaux pays, p. 48.

[3] In the references to the trade, especially the exports, all the manufacturers of skey have so far been considered. As the whiskey pools have mostly concerned one branch of the business, and as the trust is limited to this branch, *i.e.* the ufacturers of a product for immediate use, it is worth while to call attention to the nction. One class of producers, especially those in Kentucky, manufacture ntucky whiskey," technically so called, *i.e.* a product that needs to be stored for time (from two to five or more years) before it is in good condition for use (. Atherton: Testimony before Committee on Manufacture, p. 3); the other of distillers, located mostly north of the Ohio river, manufacture alcohol, pure l or cologne spirits, *etc.*, a product that is fit for immediate use.

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Some said: Let this go on and let the fittest survive. Our experience was that a distiller would keep on until all his own money and all he could borrow was gone, and when he was used up there was another man ready to step in his shoes.[1]

In November, 1881, a general meeting was called to form a pool. Prices were really below the cost of manufacture in many places, and the only remedy seemed to be to limit the output, and to export the surplus, even at losing prices. The "Western Export Association" was formed, the officers of which were authorized to levy a monthly assessment on each distiller running his distillery. This assessment was to be proportionate to the amount of grain used in manufacture, and high enough to pay the losses arising from the exportation of a quantity of spirits sufficient to relieve the home market.

An appeal was made to Congress, asking that an export bounty be given equal to that granted by Germany; or, if a bounty for export should not be given for fear of lessening the revenue, that the internal revenue tax be raised to $1.00 and then a bounty of 10 cents for export be granted. Congress and the people, however, had not forgotten the whiskey-ring scandal, and consequently Congress did not dare legislate in favor of distillers, even if such legislation should injure no one.

This first pool lasted till May, 1882; then, some members refusing to pay their assessments, it broke up. The distillers had been able to keep prices somewhat higher by its means; but after the breaking of the pool, they ran at low profits, many of them at a loss, or else shut down during the summer — a proceeding which in itself involved of course a decided loss. In September, 1882, they organized again for one year on a similar plan; but it was found necessary to make an attempt to limit the output of the distilleries to a small percentage of their capacity, in addition to the relief of the market by exporting.

It soon became evident that it was cheaper to limit production by paying some distilleries to suspend production entirely, permitting the others to work at more nearly their full capacity, than to limit all to a fixed percentage of their normal production.

[1] Letter from H. B. Miller, former president of the pool.

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Though the Kentucky product is of a different kind from that manufactured by members of the pool, it of course came into competition with the latter when it had aged enough to be put upon the market. The law allowing distillers to keep their product in bond for three years before paying the tax had led to a heavy overstocking in Kentucky, and when this stored product first began to come upon the market, the situation became still more trying.

From 1883 till 1887 the pool continued for a year at a time, with a suspension as often as once each year. Sometimes the better plan seemed to be to limit the output of the distilleries, leaving each distiller to attend to the marketing of the product himself; sometimes for the officers of the pool themselves to provide for the export of any surplus, assessing the individual distillers the amount required to pay any loss on the export. In the articles of organization of the pool of 1884, we read:

> Only 28 per cent of the full capacity shall be operated, and no stocking up beyond this amount allowed under any circumstances. Any member operating his house and producing any kind of distilled spirits must take care of them himself. The association is debarred from paying any member for maintaining any market, exporting goods, or warehousing them.

In spite of the small percentage of capacity run during this year, the pool suspended in the spring of 1885, though it re-organized again in October of the same year. At the organization of this pool (in 1885) a committee reported:

> It is the sense of this committee that no distillery shall be allowed to run beyond 40 per cent. The basis for market price should be fixed at the lowest possible figure, it being recognized by all that high prices are detrimental and difficult to maintain.

Section 12 of their articles of agreement, differing from those of the preceding year, provides for exportation as follows:

> To maintain prices at all times, the officers shall cause to be exported at any time without the United States any surplus that may at any time appear, allowing and paying therefor [such] a bonus as will equal the

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quotation prices, and [shall] report all such exports, the quantity shipped, the bonus paid, *etc.*

Section 13 further provided that the president should cause a suspension of the association for the following causes:

If a distiller runs more than he is entitled to run; if a distiller refuses to exhibit his government book to an authorized agent; if a distiller refuses or neglects to make his monthly report or refuses to accept his draft or pay his monthly assessments; if a distiller resumes his capacity and operates his distillery having once sold it; in case exported goods are re-imported and placed upon the domestic market; in case closed houses are not paid in full, and in one payment, for each month, before the close of said month.

A resolution was also passed providing that the association be suspended when any new distillery should be built and start to run. Provisions were also made for the examination of the government books of each distiller by the officers of the pool, in order to prevent deception and cutting of rates on the part of any distiller; but in spite of these precautions, and in spite of the high prices they were able to maintain for their goods in the pool, it was found that the temptations to secure sales by the cutting of prices were so great that members would violate the terms of the agreement. Within two months after its formation, in calling a meeting of the distillers whose houses were running, in order to determine the amount of assessments, prices of goods, *etc.*, the president of the pool expresses clearly the state of the trade. It should be remembered, in considering his words, that they were written not to influence legislation or public opinion, but that they were addressed to men directly concerned, who knew the circumstances. Among other things, he says with reference to over-production and the proper policy of the pool:

That we shall over-produce after the holidays we all know — we knew it when we organized in Chicago and for that very reason made the assessment 12 cents on 40 per cent to create an export fund.[1] That

[1] That is to say, 12 cents for each bushel of capacity run, when the houses were running at 40 per cent of their full capacity. The capacity of a distillery is measured by the number of bushels of grain consumed per day.

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we have already over-produced, figures will show. . . . A few more days running without a pool would have wound you up, and this over-production we are not trying to get rid of by exportation. You want to look these figures square in the face; and if it takes more money to do our exporting than you thought, it is occasioned by your own folly in over-producing so heavily in September and October. As long as we have funds to export the surplus there will be no difficulty in maintaining prices. When goods accumulate without any outlet, then is the time when cutting commences. . . . It will not do to make the price of goods too high, for as we raise the price we must raise the bonus on exports correspondingly. . . . There are but two things left for us to do; either provide sufficient means to keep our warehouses clear of the surplus by exportation, or let the market go to pieces of its own weight. I am well convinced there is cutting going on secretly now, and unless provision is made at once to arrest it, it will be done openly, until there is nothing left of the market. Situated as we are, the question is no longer as to making a great amount of money, but to prevent our suffering great losses. This is the problem for you to solve, and the meeting is called thus early as an imperative necessity, and all running houses should be present. Distillers, when they have an accumulation of goods on hand, will not hesitate to cut prices *one cent* a gallon to make a sale, when they will hesitate to pay one-half cent a gallon to make cutting *unnecessary*, even if double the amount is placed in their hands. Right here I will repeat what I have so often stated before, that the amount of the assessment does not come out of the distiller, but out of the consumer, the same as the government tax, and he [the distiller] is merely the agent to collect and pay it over, of course with the qualification that prices are maintained.

He closes a series of statistics (regarding the output in competing states) with the words:

I have been particular in giving you all the information possible, so you can act intelligently at the next meeting. The only way to maintain prices is to get rid of the surplus by exportation. You can fly in the face of Providence if you see fit, but it will bring its own punishment with it.

A pool seemed a necessity; but the experience of this and of the following year seemed to show that a pool could not be maintained. The competition, there can be no doubt, was for many ruinous, though those best situated could live and make profits. The difficulty in maintaining the pool, together with

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the effect of the pool on prices, may be seen in the fluctuating figures of Table III (page 311). The same movements are illustrated graphically in the Diagram (pages 318, 319), and there the changes may be more readily noted. Table II shows the extent of the assessments from September, 1884, to the time of the formation of the trust. It has not been possible to obtain the earlier assessments.

TABLE II.

POOL ASSESSMENTS, SEPTEMBER, 1884, TO APRIL, 1887, INCLUSIVE.

	1884. Cents per bushel mashed.	1885. Cents per bushel mashed.	1886. Cents per bushel mashed.	1887. Cents per gallon.
January		8	16	3
February		8	9	3
March		8	10	4
April		8	10 (Extra assessment for 1 day: 35 cents.)	4
May		7	10	
June		9	8	
July		9	4	
August		9	6	
September [1]	6		per bush. 2 / per gal. 2	
October	6		per gal. 3	
November	8	12	" 3	
December	8	12 (Also extra assessment for 1 day: $1.50 per bushel.)	" 3	

In consequence of the competition, and in order that a closer organization might be established, it was determined by the leading distillers, in the spring of 1887, to organize a trust, formed upon the model of the standard-oil trust. The "trust agreement," published in the examination of the president of the trust before the congressional committee in 1888, provides

[1] Assessment for September, 1886, was 2 cents per gallon produced (equal to 9 cents per bushel), and also an assessment of 2 cents per bushel; making a total of 11 cents per bushel. By multiplying the assessment per gallon by $4\frac{1}{2}$, the amount per bushel will be obtained nearly. About $4\frac{1}{2}$ gallons of spirits are made per bushel corn.

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that the trust created shall be vested in nine trustees; that these trustees, under bonds of $100,000 each, shall, in accordance with section 11:

> . . . exercise supervision, so far as their ownership of stocks enables them to do, over the several corporations or associations whose stock is held by said trustees. As stockholders of said corporations they shall elect or endeavor to elect honest and competent men as directors and officers thereof, who shall be paid a reasonable compensation for their services. They may elect themselves as such directors and officers, and shall endeavor to secure such judicious and efficient management of such corporations as shall be most conducive to the interests of the holders of trust certificates.

No distillery was to be allowed to join this trust except the members of the former pool; but any member of the former pool, if a corporation, might join upon the assignment of a majority of stock by the individual stockholders to these trustees. For the stock thus assigned, the trustees prepared stock certificates, which showed the interests of each beneficiary in said trust. The certificates were divided into shares of the par value of $100 each, and were known as the "Distillers' and Cattle-feeders' Trust certificates." Any distillery not owned by a corporation might be re-organized in corporate form in order, by the aforesaid assignment of stock, to join the trust. In accordance with section 4 of the trust agreement, no certificates could be issued except for stock, and the par value of the certificates issued were to represent as nearly as possible the actual cash value of the stock held by the trustees in trust. In estimating the value of the plants owned by the different corporations, the following elements were considered: (1) the cost of the construction of the plant; (2) the amount of working capital required for its management, and (3) its earning power. This last element, of course, depends upon various factors, and of necessity was left largely to the judgment of the committee appointed. The location of the distillery, the skill of its former managers, their ability to secure a sale for their product, and other factors would all need to be considered. Furthermore, the earning capacity of the distillery under the management of the trustees, if it should

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be allowed to run, might vary quite materially from its former earning power. These different considerations led the committee to issue certificates for from two to three times the cash value of the plants. This has led some of the critics to state that the trust certificates were about two-thirds water. A careful consideration of the factors involved will enable the reader to judge how far this is true.[1] That jealousy among the different corporations might be avoided, the value placed upon the stock of each corporation was not made known except to the corporation immediately interested and to the trustees.

The trust was to continue for twenty-five years from the date of its organization, and thereafter until terminated by a vote of sixty-six and two-thirds per cent in value of the holders of certificates, at a meeting called for that purpose.

At the first annual election three trustees were to be elected to hold their office for one year; three to hold their office for two years, and three for three years. Thereafter three trustees were to be elected annually to take the place of those retiring, each to hold his office for three years, except in case of those elected to fill a vacancy, who should hold until the expiration of the term. A person to hold the office of trustee must be the actual owner of at least 500 shares of trust certificates.

The meetings of the certificate holders take place annually, and may be called oftener at the request of thirty-three and one-third per cent of value of the trust certificates.

It is to be noted that this trust agreement expressly provides that the trustees are not limited in their duties, as has been often suggested, to the receipt of dividends or interests upon the stocks or moneys held in trust, and to the division of such dividends to the holders of trust certificates; but they are also to elect competent men as directors and officers of said corporations represented, and are to exercise supervision over the several corporations whose stock is held by them as trustees. Furthermore, it is to be noted that these trustees in every case hold a majority of the stock in each corporation, so that their control over each distillery is absolute. A manager is appointed

[1] See Testimony of J. B. Greenhut before Committee of Manufactures, pp. 73 *et seq.*

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by the trustees for each distillery, whose salary is paid out of the trust funds. This manager is, of course, usually one of the leading original stockholders and managers in that distillery.

In order that the business may be kept well in hand, reports are required daily from each distillery engaged in manufacture; and each distillery that is running sends in a detailed report every month, showing the exact cost of manufacture of the product and all other details regarding the management of the business. Again, by these monthly reports the trustees are able, if they wish to lessen or to increase the amount produced, to close the distilleries that are working least successfully or to open those that furnish the best opportunity to supply any special market. The trustees are also at liberty to purchase distilleries that are running outside of the trust, and to lease distilleries managed by the trust, whenever in their opinion this plan seems more profitable than to operate them by trust officers. In the latter case, of course, the profits are still held under the control of the trust.

This firm control over the different distilleries enables the trustees to control the market by limiting the output of the product to the amount demanded rather than by exporting the surplus at a loss, as was done under the old pools. Almost no attempt has been made by the trust to gain control of the foreign market, and none of the product has been exported at a loss since the formation of the trust. Their comparatively small exports (see Table I, page 300) have been at paying prices. A brief examination of Table II (page 305), which gives the monthly assessments levied upon the members of the old pool (from 6 cents to 18 cents per bushel) from September, 1884, to the formation of the trust in May, 1887, will show how great a saving has thus been effected.

Another saving is that which comes from the lessened expenses of management, resulting from the closing of so many distilleries. Nearly all the distilleries in the former pool, to the number of more than eighty, have become members of the trust. In order to limit the output to the demands of the market, these distilleries, if running when they joined, have been from time to time

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osed, until at the present time twelve distilleries supply the)tal amount that is placed by the trust upon the market. One r two others are running, but for the production of yeast, or)me other product than spirits. It is by no means to be ssumed that the decrease in the output corresponds in any ıanner with the number of distilleries closed. When it is ıken into consideration that for several years the output of ıe distilleries had been often limited to from 25 to 50 per cent f their capacity, many of them even closing for portions of the ear, it will be seen that an equal output might be produced by much less number of distilleries. That there has been a smaller ggregate output is doubtless true, and that to an extent more han enough to balance the lessened amount exported. The mount is held in hand well enough, so that the trust can ıanage to control the market.

An examination of Table III (page 311), which gives the ıarket prices of corn and whiskey from the time of the forma- ion of the first pool, in 1881, to March, 1889, will show that the rice of alcohol has not been to any noticeable extent raised by his closing of the distilleries. For some six or eight months fter the formation of the trust the prices were lowered eight r nine cents per gallon, although the prices of corn ruled some- vhat higher than before. Presumably the purpose of this lower- ng of the prices at first was to bring pressure to bear upon the listilleries yet remaining outside of the trust in order to force hem to join the trust, or else because in the beginning the rust did not yet have strength to force the market. After all r nearly all of the members of the former pool had joined he trust, so that its membership was practically complete, and t became evident that a contest with the distillers yet remain- ng outside was at hand, the managers of the trust raised the rice. The new members would need dividends to keep them ontented, and there was also a necessity of accumulating a und upon which to enter upon this contest with their rivals.

A comparison of the prices of corn and alcohol for the year receding the formation of the trust with the prices from May, 888 to January, 1889 (see Table III, or Diagram) will show

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that the profits made by the trust have not been greater than those made by the old pool, unless the cost of management of the distilleries has been much decreased; and yet, during this period from May, 1888, to January, 1889, the trust had put the price high enough to enable them to pay good dividends to members that might otherwise have become dissatisfied and to accumulate a surplus for the purpose of a contest with outsiders. It is from this very evident that the saving in cost of management and manufacture has been very great. It must also be kept in mind that from twelve to twenty distilleries have been earning these dividends on stock that represents some eighty-three distilleries. This emphasizes still more the great saving effected in expenses.

The immediate result of this increase in price (from $1.00 to $1.09 per gallon, and then to $1.14) was the building of new distilleries, notably the large distillery at St. Paul; the opening of many small distilleries, and the manufacture of spirits by the smaller distilleries in Kentucky, whose normal product was whiskey for aging. When at length it became evident that the distilleries outside of the trust were also making a large product and the output from these distilleries was beginning to have its effect upon the market, the trustees, on the 1st day of January, 1889, again cut the price of the product to $1.04 per gallon, in order to crush their opponents. The smaller distilleries in Kentucky and elsewhere of course closed promptly, or changed the character of their product. The most formidable rivals of the trust, Shufeldt & Co. of Chicago, who had doubtless also made large gains from the increase in price and who had run their distillery at even more than its normal capacity, at once cut down their output, though they have not closed and are even building a new house of 3000 bushels capacity.

What the next move will be, remains to be seen. It is said by the managers of the trust that their best policy is to hold the price of the product below the cost of manufacture by most of the rival distilleries and thus keep the market steady. The claim that they are able to do this from the saving in manage-

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TABLE III.

MARKET PRICES AT PEORIA FOR WHISKEY AND CORN FROM 1881 TO 1888 INCLUSIVE.

MONTH.	1881.		1882.		1883.		1884.	
	Whiskey.	Corn.	Whiskey.	Corn.	Whiskey.	Corn.	Whiskey.	Corn.
January			1.15–1.16	62–59	1.13–1.14	44½–50½	1.15–1.16	41½–47
February			1.16–1.17	58½–54	1.14–1.15	48–55½	1.16–1.17	47–42
March			1.16	58¾–66½	1.15	56¼–49	1.17	41½–48
April			1.17	66¾–75½	1.15	47½–52½	1.17–1.12	43½–50½
May			1.13–1.17	75–70½	1.15	50–53	1.12	48–54½
June			1.11–1.15	72–69¼	1.15	53–47½	1.08	50–45½
July			1.11–1.14	73–75½	1.15	48–45	1.08–1.07	44–49
August			1.14–1.16	74½–77	1.15	45–51	1.05	47½–50½
September			1.16–1.18	75–59½	1.15	49½–46	1.10–1.11	51–45
October			1.16–1.18	61–70¼	1.15	45–47¾	1.11	40–53
November	1.11–1.15	62½–58	1.14–1.15	70½–67	1.15	46¼–49	1.11–1.12	42–30
December	1.15	58½–62	1.13–1.15	55¼–45	1.15	52–45	1.12	30½–35

MONTH.	1885.		1886.		1887.		1888.		1889.	
	Whiskey.	Corn.	Whiskey.	Corn.	Whiskey.	Corn.	Whiskey.	Corn.	Whiskey.	Corn.
January	1.12–1.14	34½–40	1.10	33–35	1.14	33¾–35½	1.09	48¼–47	1.04	30
February	1.14	38½–36½	1.10	34–32¾	1.14	35¼–33¾	1.09	47–45¼	1.04	29½
March	1.14	37½–40½	1.10	33–34¼	1.14	33¾–38	1.09	45¾–49	1.04	30
April	1.14	39¾–47½	1.10	33¾–32½	1.14	37¼–36	1.09	47¼–53¼		
May	1.14	50–45	1.10	33–29½	1.14–1.05	37–38½	1.09–1.13	52½–57½		
June	1.14	44–47½	1.10	29–31	1.05–1.09	38¾–36	1.13–1.14	53¼–46¼		
July	1.14	47–43¾	1.10–1.07	28½–41½	1.05	38½–34½	1.14	49–43½		
August	1.14	45¼–42½	1.09–1.11	40½–39	1.05	38¾–42¼	1.14	45¾–40		
September	1.05	43½–40½	1.11–1.13	38¾–36	1.05	41½–39½	1.14	44–40½		
October	1.04–1.09	42½–38½	1.13–1.14	35½–32½	1.05	39½–41¾	1.14	39¼–44		
November	1.09	44½–32	1.14	33¾–36½	1.05	39½–46	1.14	42½–38		
December	1.09–1.10	33½–31½	1.14	35½–33½	1.05	44¾–49½	1.14	33½–29½		

AVERAGE YIELD PER BUSHEL.[1]

YEAR.	YIELD.	YEAR.	YIELD.	YEAR.	YIELD.	YEAR.	YIELD.
1881	3.694	1883	3.874	1885	4.076	1887	4.62
1882	3.792	1884	3.895	1886	4.55	1888	4.53½

ment and from the fact that they run only the distilleries most favorably located. For local trade they can run those that will save freight; and, in fact, they run one in Cincinnati, one in St.

[1] The average yield for the last three years is for the Trust or Peoria distilleries. The government report, including all distilleries, gives for the years 1886, '87, '88, respectively, the yield 4.09+, 4.23+, 4.24+.

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Louis, one in Kansas City, *etc.* The figures of the trust, gatl ered from the various distilleries under their control, show tha the distilleries at Peoria have an advantage of from 14 to 15 pe cent over most of the distilleries located elsewhere, so that her some six are running. It is the belief of distillers not membe of the trust, as well as of the trustees, that a Peoria distiller has at least 10 per cent advantage over a distillery located a Chicago, and nearly 20 per cent over one located at St. Pau This claim seems to be substantiated by the statement c Charles Clark, for many years past a prominent distiller a Peoria, though not now in the business himself. He says tha at times of great depression in the business, during the exis ence of the former pools and earlier, his distillery made regu larly 10 per cent on the running capital and 25 per cent on th plant, besides good salaries for the managing members of th firm. With the exception of one year this rate of profit wa made for many years prior to the formation of the trust, and i that unfortunate year there was a clear profit of $12,000. Du ing this very time the complaints of distillers in other parts c the country that money was being lost and that no interes could be made on their investments were doubtless often tru On the other hand, in estimating the ability of the trust to con pete with its rivals, it must be remembered that fourteen di tilleries must make profit enough to pay dividends on the capita invested in more than eighty distilleries, a drawback amply su ficient to offset any slight benefit in the cost of manufactur A distiller who has no closed houses to carry, no dividends t pay on capital that is inactive, has certainly something of a advantage. If the trust holds its own firmly, however, th advantage will soon to a great extent disappear, as the trust wi doubtless, as opportunity offers, dispose of the useless close distilleries and turn the dead capital into profitable channels.

The trust has, doubtless, had some benefit from the fact tha dealers would fear to incur the hostility of so powerful an orga ization by purchasing from its rivals. This is again offset i part, by the popularity of certain brands of whiskey (thoug this would apply especially to the Kentucky product) the manu

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cturer of which can always be sure of his market. It is obable, at any rate, that the advantage is not so decidedly ith the trust that it can totally crush out all competition, ough this can be determined more certainly after a year or vo. At present it manufactures only from 80 to 85 per cent the total product in the market, and its rivals are preparing compete still more vigorously. Shufeldt & Co. of Chicago, has been said, are building a new distillery, and there are eports that others in Illinois are soon to be built. The trust annot afford to buy out all distilleries that may be built. If is to succeed, it must keep its prices so low that new distilleries will not be built. Its action in pushing up the price ast year, if a merely temporary expedient to accumulate a fund, was perhaps a wise move from the standpoint of the trust; but uch prices, quoted too often, would not be of advantage. The rust must succeed by underselling its rivals, not by buying hem out. This is evidently, too, the policy of the organization; for it is a rule that no distilling company not in the old ool can join the trust. Even those companies have not been oaxed in by too large offers, as is sometimes asserted. The ssertion made in the New York *Evening Post* of January 2, 889, by the agent of Shufeldt & Co., that the trust had tried in nany ways to force that firm into union and had even offered it 1,000,000 in cash to join the organization is, even if correctly eported, not true. Both the trust officers and Shufeldt & Co. eny it. Doubtless the trust would be glad to be joined by so mportant a rival; and it is conceded by members of the trust hat, had the company joined them when the trust was organzed, its managers could have had much influence in the new rganization. The implication is that they might have had a rustee. It is worth while to give this much of the case, beause it shows the position the trust has taken regarding perhaps its most formidable rival, and the course it must pursue if t is to succeed. It must meet its competitors in fair business ivalry and be able to control by low prices the larger part of he sales.

As much is said regarding the influence of trusts and combi-

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nations of all kinds on wages and prices of materials, it may worth while to mention the statements on this subject furnish by the president of the trust to the congressional committe The coopers that manufacture barrels for the distilleries a the miners that furnish coal both testify that the distilleri connected with the trust voluntarily raised the prices for barre and coal so that fair wages could be paid. Before the organiz tion of the trust such a rise in prices could not be given account of the fierce competition, and even after its formati distilleries not connected with the trust held the miners to the former oppressively low contracts, instead of following the e ample of the trust. The president of the trust adds that whi they "do not wish to take the position as posing before t public as benefactors to any extent," yet they do believe in "t principle of intelligent co-operation," and as they can afford pay good wages they are willing in justice and fairness so to d

Most of the advocates of trusts and pools claim that one the chief advantages to come from them is *stability* of price An examination of Table III or, better, of the Diagram, w show that while the fluctuations are somewhat less freque under such a régime, yet, when a fall or rise in price does com it is sudden and is apt to be a change of considerable exten It is very questionable if there is any gain from such a polic The lack of stability under the old pool was due, it was claime to the instability of the pool itself; but so far matters ha been little better in this respect under the trust. One thin seems better under the trust: the trust itself has stability an seems to have power; it may steady prices if it will put the somewhat low and be satisfied with moderate steady return instead of striving for great gains interspersed with very sma ones. The future will determine what is to be its policy. T managers of the trust say that the policy of the trust is to secu steady, moderate gains; others who are interested question thi The system of high gains alternating with low ones, if pursue as a regular policy, would do much to justify the distrust of t public and would take away the only ground on which suc combinations can fairly be justified: low, steady prices.

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A sufficiently accurate estimate of the real benefits accruing to the various distilleries from their association in the trust may be obtained from an examination of the dividends paid by the trust since its formation, and from the value of the trust certificates. Although the trust was organized in June, 1887, many of the distillers belonging to the old pool had not been received into the trust until about the beginning of the following year; so that any dividends paid before January, 1888, cannot be considered fair tests of the management or of the success of the trust. From January, 1888, to July, 1888, inclusive, a dividend of one-half of one per cent per month was paid; for August the dividend decreased to one-fourth of one per cent; and from September till January, 1889, inclusive, dividends of one-third of one per cent per month were declared. The dividend for February, 1889, again decreased to one-fourth of one per cent, owing doubtless to the late cut in price. It must be borne in mind, also, that in addition to the dividends throughout the year 1888, a surplus was being accumulated to carry on the contest with outside distillers. It was said by some members of the trust, when the trust certificates were valued at 30, that they then represented about the actual cash value of the plant. If this be accepted as an accurate estimate, and it is doubtless not far from the truth, we can readily see that the trust has paid dividends, during somewhat more than one year of active existence, of more than 12 per cent per annum.

TABLE IV.

QUOTATIONS OF MARKET VALUE OF DISTILLERS' AND CATTLE-FEEDERS' TRUST CERTIFICATES.

1888.	March	1.	50.	1888.	Aug.	28.	43.	1889.	Jan.	15.	30.
		14.	48.		Sept.	7.	40.			31.	31.
	April	1.	45½.			19.	39½.		Feb.	9.	32.
		20.	42½.		Oct.	10.	36½.			18.	33.
	May	11.	45½.			20.	35½.		March	4.	34.
	June	4.	43.		Nov.	13.	39.			7.	35.
		18.	40.			21.	39.			13.	36½.
	July	2.	41.		Dec.	12.	35.			20.	35½.
		7.	44.			21.	33.		April	1.	34.
		24.	45.	1889.	Jan.	4.	33.			6.	34.
	Aug.	13.	42.								

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An examination of Table IV, which gives the value of trust certificates for each month from March, 1888, to the present time, will lead us to about the same conclusion. As soon as it became evident that the trust was firmly established and bade fair to be a success, some small sales of certificates were made to enthusiastic buyers as high as 65; others among distillers at 55; but no real market for trust certificates was established above 50. With some slight variations the value has slowly decreased, until in January, 1889, the lowest value (30) was reached, since which time a slight increase in value is to be noted. The figures in this table are based upon actual sales, and there can be no doubt as to their accuracy. It is, however, to be remarked that the certificates are held mainly by the large distillers as investments (though the number of individual certificate holders has largely increased), and that comparatively few transfers of trust certificates have been made. The prices quoted of course depend, too, to some extent, upon the amount invested at the time. The certificates are not listed in any stock exchange, and there cannot be said to be any regular market for them, though they can be obtained through brokers in four of the principal cities: Peoria, Chicago, Cincinnati and New York. The figures given represent, then, almost with perfect accuracy, the value placed by the distillers and the liquor dealers upon the certificates.

The facts given with reference to the working of the trust seem to show that it has been beneficial to the greater portion of the manufacturers of alcohol and spirits in the United States, although individual distillers have perhaps made no more, and some, it may be, have made even less profit than they could have made acting independently; while, so far at least, the prices to consumers have not been on the whole increased, and the tendency seems to be towards lower and steadier prices for the future. As has been said, however, only the future can determine what the policy of the trust is to be. The facts seem to show that it is within the power of the trust to bring about this result; and it seems to be for its interest so to do. As regards the stronger rivals of the trust, the prices have so far

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been so high that they have not suffered materially. The next year or two will show whether they can endure the competition. Even if they should be forced to close, the question is still an open one whether more distilleries would not have been closed under free competition. Many stockholders are now drawing dividends from the trust who, without the trust, would doubtless have lost much of their capital.

At the time of the formation of the trust, it was thought by some of the distillers living at Peoria that, on account of their unusual facilities for manufacture, the trust should be limited to Peoria distilleries and a few others favorably located. The experience of the trust seems to show that, had this plan been followed, the trust might have paid higher dividends to its members and might also have held the price of alcohol so low that outside competition would not have been much more successful than it has been under the present arrangement. Some distillers who believed in this latter plan — presumably for the most part Peoria manufacturers — still think it would have been better to have limited the organization to five years with the option then to continue, suspend or reorganize. They feel that the owners of the less favorably situated distilleries have an undue advantage. Of course, this depends mainly upon the relative value placed upon the plants when they entered; but it is probable that it would have been cheaper to crush some of the weaker members than to buy them by admitting them to draw dividends. Against this view is, of course, the fact that such action would have aroused bitter hostility that might well have resulted in the building of new distilleries in locations where they would have become formidable rivals.

On the whole, while there is this slight tendency to think that matters might have been better under some other form of organization, or even, for a few, with no organization; and while there may be a slight feeling that the trustees are not entirely free from nepotism in their appointments, any more than are our highly esteemed executive officers of the United States; yet, as was shown a year ago by the unanimous re-election of all the trustees at a meeting in which ninety-nine

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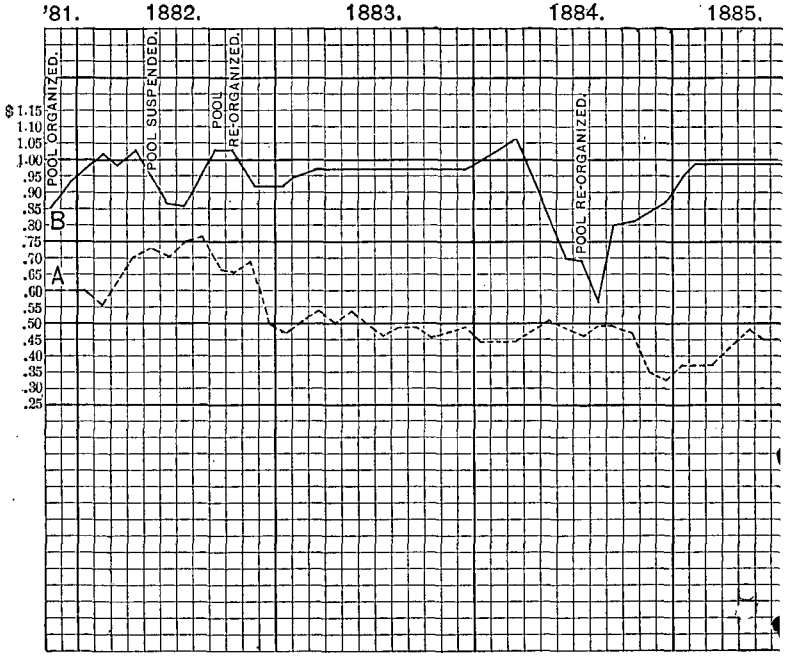
and one-half per cent of all the certified holders were represented, as well as by the general expression of satisfaction on the part of the distillers one meets, the trustees are thought to have performed their responsible duties with discretion, and the trust is considered by its members a success.

In conclusion, it may be well to mention (though in a technical journal it may not be necessary) that the words, success, benefit, profit, *etc.*, have been used in the foregoing article in a strictly economic sense, and that, of course, the character of the product as one beneficial or injurious to the community has

DIAGRAM ILLUSTRATING THE HISTORY



The (dotted) line A shows the average market value of corn per bushel at Peoria. The line B shows the average market value of the whiskey (the spirits used for base in prices) from one bushel of corn. To obtain this value, the revenue tax was deducted from the market value of one gallon, and the difference multiplied by the average yield per bushel of corn. — The space between the lines A and B represents,

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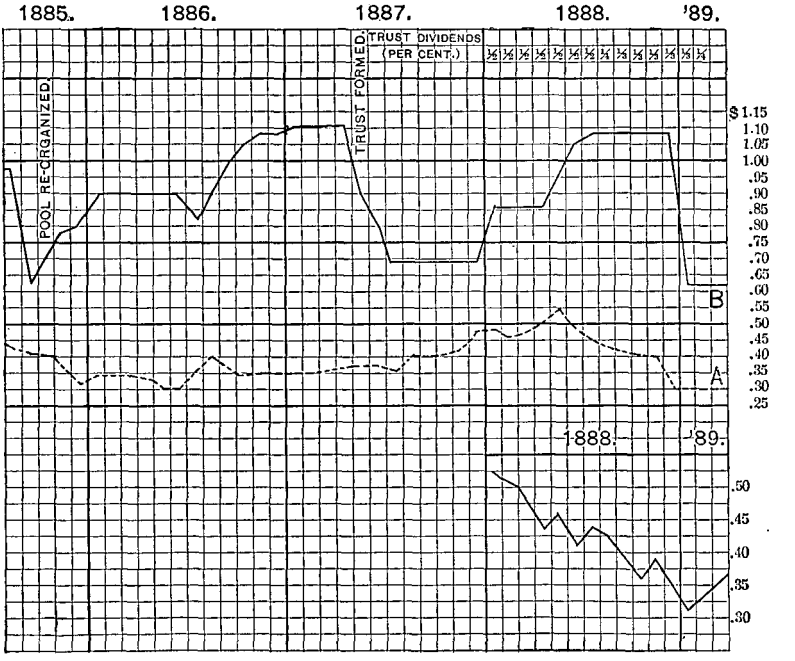
not been considered. It may be well also to repeat a statement made in the beginning: that the purpose of the article is merely to set forth, as fully as space and the information at hand will allow, the circumstances leading to the formation of the whiskey trust, the outline of its organization, and its real effect on prices, manufacture and such matters. In this place no position is taken on the question of its legality or of its social or political influence, whether beneficial or otherwise. It is probable that no one can as yet speak with sureness on these topics, and this is not the place for mere opinions.

JEREMIAH W. JENKS.

OF THE WHISKEY POOLS AND TRUST.



of course, the cost of production plus the profits. During the greater part of the pool's existence, assessments for export expenses must be deducted from the profits. (See Table II.)

The line in the lower right-hand corner shows the fluctuations in the value of the trust certificates: par value, 100; cash value of plant estimated at about 30.

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REVIEWS.

Omitted Chapters of History, disclosed in the Life and Papers of Edmund Randolph, Governor of Virginia, First Attorney-General, United States Secretary of State. By MONCURE D. CONWAY. New York, G. P. Putnam's Sons, 1888. — 8vo, 401 pp.

Mr. Conway's volume is well-timed: in these centennial years every important fact about the organization of our government is welcomed. These *Omitted Chapters of History* are a significant contribution to our knowledge of the political events in which Edmund Randolph bore a leading part. The services of Randolph in the constitutional development of the United States are clearly set forth. The Virginia governor played a leading part in the federal convention, sketched the general plan of the constitution, and introduced the detailed plan. Four features of the instrument, as adopted, he vigorously opposed: the re-eligibility of the President; a single executive; the equality of the states in the Senate; the control of commerce by a bare majority of Congress. He favored a second revisory convention and Franklin supported his motion. When the delegates declined to vote for a second convention, Randolph did not vote for or sign the constitution as it went forth to the states. Yet in the Virginia convention he battled zealously for ratification, believing union a paramount necessity, and amendment more probably gained within the Union.

Mr. Conway shows Randolph to have favored a strong federal government with a negative on state legislation. The provision included in Randolph's draft would, if adopted, have made nullification impossible. In the original draft of Madison's *Virginia Resolutions* of 1798, there was a nullification clause. An unpublished manuscript among Madison's papers shows that the elimination of this clause was owing to Randolph's criticism of Madison's unconstitutional state theories.

As first attorney-general, Randolph organized the department of justice and adapted the judiciary system of the country to its functions. He had conduct of the famous case of Chisholm *vs.* Georgia, and firmly maintained, even against the protest of Virginia, the liability of a state to be sued, till "sovereignty, trembling at once with dignity and terror, hastened to answer the Supreme Court by the eleventh amendment." Had Randolph accepted the proposal to go upon the supreme bench, he

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would have been in his right place, and would not have encountered the cloud that has obscured his fame.

The main purpose of Mr. Conway's volume is to disperse this cloud of obloquy that has so long shrouded the name of Edmund Randolph. In his labor of love and justice, Mr. Conway has been successful. So far as Randolph's integrity is concerned, Mr. Conway has shown, by documents in French, British and American archives, how baseless is the imputation that Randolph sought, in secret collusion with the French minister, to thwart the policy of the administration he served. He has also conclusively disposed of the fiction by which he is made to appear on the books of the United States Treasury as a defaulter. From the fresh materials gathered Mr. Conway has painted a new portrait wholly unlike the traditional one drawn by Jefferson.

Mr. Conway finely and justly defines the contrast between the politics of Jefferson and the politics of Randolph. The "democratic imperialism" of Jefferson is in our own time contending with the "democratic republicanism" of Randolph. Nothing but affection for Washington and duty to his country kept Randolph in that difficult secretaryship of State, in which Jefferson had been too astute a politician to remain, and in which he had sowed the wind and left Randolph to reap the whirlwind. In the storm aroused by Jay's treaty, with its obnoxious clauses against American ships carrying provisions on the open sea, Randolph was overthrown. The Federalist leaders in the cabinet were to a man committed to the treaty; Randolph opposed it and had persuaded Washington to withhold his signature till these clauses were withdrawn. Political excitement ran high; even calm lookers-on deemed civil war imminent. At this juncture a long despatch of Fauchet to his government, intercepted at sea and sent to Hammond, the British minister, came into Washington's hands. The letter contained imputations on the honor of Randolph, Hamilton and even Washington himself. Fauchet's letter decided the fate of the treaty, gave a complete triumph to the British party, and led to the downfall of Randolph. Washington at once signed the treaty with a protest, the preparation of which he committed to Randolph. Not till the protest was completed was Randolph confronted with the despatch that had reversed his policy. During the ten days previous to the disclosure of the French despatch, Washington had been twice a guest at Randolph's table, had given Randolph the place of honor at his own table, had lavished exceptional affection on the secretary he was so soon to treat as a traitor. If Washington really believed Randolph guilty of perfidy, it would be difficult to think him free from duplicity in the unusual attentions he bestowed upon the secretary. If he deemed Randolph innocent of intrigue, why did he sign the treaty, exclude his most intimate friend and consult with that friend's avowed enemies in a

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matter that concerned Randolph's honor." Washington's estimate of men was so accurate that we are wont to accept his views of them, and his conduct towards them, without question. What he thought of Randolph and why he acted towards him as he did we do not know. Mr. Conway's ingenious suppositions, fervent arguments and new discoveries leave these questions enigmas still. According to Mr. Conway, Washington yielded to stern political necessity and took a step in his treatment of Randolph which his heart and judgment did not approve. He was forced to choose between the sacrifice of Randolph and the wreck of his own administration. He could not save Randolph, and but for that sacrifice must have shared his fate. Nor could he at any time previous to his death have done Randolph justice without seriously affecting the foreign relations of the country. His unusual tokens of confidence and affection he intended should say to Randolph after his fall: "I struck you down, but I never doubted you." This explanation will hardly be accepted as final.

Mr. Conway has rendered a service to students of American history by his arduous and fruitful labors in a field largely untilled. He has made a protracted search among unpublished manuscripts, state archives and family papers, previously unexamined or inaccessible. He has elucidated these papers in a style, dignified, forcible and at times dramatic.

EDWARD P. SMITH.

John Brown. By DR. HERMANN VON HOLST. Edited by FRANK PRESTON STEARNS. Boston, Cupples & Hurd, 1887.

This volume of 232 pages consists of a monograph by Professor von Holst, preceded by 54 pages of introductory matter by Mr. Frank Preston Stearns, and followed by 59 pages of other matter, consisting of a poem, a letter from a Boston physician to "a lady patient" about John Brown's grave, and more matter from Mr. Stearns. Mr. Frank Preston Stearns appears to have no perception of the ridiculous. He says in his preface that he has been aroused to a sense of the danger which might result from the late attacks upon the memory of John Brown — not only to that hero, "but to all heroism in the future." Naturally enough, when he perceived a calamity of that size impending, Mr. Stearns felt that he ought to do what he could to avert it. He accordingly bestirred himself to "find some means by which the baleful influence of these attacks might be counteracted," and found it in the account of John Brown by Professor von Holst. This he employed Mr. Phillipe Marcou to translate for him, and this translation, which seems well done, he has unblushingly published with the garnishments above mentioned.

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Professor von Holst is a writer and historian who deservedly stands too high to quite justify his being bracketed, as in this volume, with Mr. Stearns' efforts to defend "all heroism in the future" and the accompanying photographs and poem; and his essay on John Brown is not of course to be placed in the same category with those lucubrations. Still, Professor von Holst is not in this volume satisfactory. He gives us a clear, graphic, interesting and substantially accurate account of John Brown himself; but when he treats of his hero's relations to the great movements culminating in the Rebellion, he writes in too rhapsodical a fashion for the philosophical historian he is. He appreciates the God-fearing wrath which possessed and lifted up John Brown, and made him in many ways a noble and inspiring character, but he does not appear to appreciate the intellectual limitations and even deficiencies which made many of Brown's projects and performances fantastic. He dwells, for instance, upon the insanity of Brown's "Provisional Constitution and Ordinances for the People of the United States" (page 109), and yet he dwells upon it in such a way as to let us suspect that at bottom he thinks that this constitution and the convention at which it was proposed were — as he says of that convention's unanimous choice of Brown as "supreme commander" — important. Professor von Holst appreciates fully, also, the wide and profound moral sentiment in the North of which John Brown, and what he did, were an expression; but he does not appear to have perceived how inchoate, or at least vague, that sentiment was as late as the end of the year 1860. He judges of men and things accordingly; he has no patience, much less palliation or charity, for people whom he identifies as opposed to John Brown.

It might be just to conclude that an author had been mastered by his style, who should write of the Free-soil men in Kansas that they proved, by the arguments of bowie knives, revolvers, shot guns and even cannons, that

> the people of the North had not yet completely lost their common sense and their manliness in the voluptuous embrace of the strumpet slavery, and under the poisonous breath of her burning kisses.

But an author of von Holst's rank cannot be so excused. He is accountable for his judgments, and it must be said that some of them are foolish and unjust. He says, for instance (page 112), that "President Buchanan presented daily a more pitiful spectacle of moral wretchedness." That is too figurative to be sensible. Again he says (page 64) that "Daniel Webster thought he could pave his way to the White House by lowering himself to hold the stirrup of the slavocracy"! Mr. Frank Preston Stearns might have written that sentence himself.

F. W. W.

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American Commonwealths: — Indiana: A Redemption from Slavery. By J. P. DUNN, Jr., Secretary Indiana Historical Society. 453 pp. — *Ohio: First Fruits of the Ordinance of* 1787. By RUFUS KING. 427 pp. Boston and New York, Houghton, Mifflin and Co., 1888.

The authors of these two volumes have devoted most of their attention to the origins of the two commonwealths of which they treat. Mr. Dunn's book makes no pretence of carrying the history of Indiana beyond its admission to the Union, and the story of Ohio after 1803 is very fragmentary. Thus for the most part their work covers the same ground, and the comparison which the reader naturally draws is not favorable to Mr. King. *Ohio* is certainly far superior to some of the previous volumes in this series, but its author is unfortunate in selecting a field for his labor which had been already appropriated by the learned secretary of the Indiana Historical society. Mr. Dunn's work as far as it goes, is almost a model one. Every page evinces untiring research, the careful comparison of authorities, and tact and discretion in reconciling conflicting statements of fact.

Down to the year 1800, the history of Ohio and of Indiana flow in the same channel. Mr. King's book starts at the head of the stream, *i.e.*, with the era of the moundbuilders. The actual history of the country begins only with La Salle's explorations in the seventeenth century, and the French claim to which it gave rise. The country west of the Appalachian range was claimed by Great Britain on the twofold ground of Cabot's discovery and the sovereignty of the Iroquois over the territory between the mountains and the Mississippi river — this confederation having recognized the King of Great Britain as their "great father." This shadowy claim was first advanced by Governor Dongan (of New York) in 1686, and in 1701 Governor Nanfan obtained a cession of all the western lands of the Iroquois. The French championed the sovereignty of the Algonkins, and under treaties with them, French commercial companies and interloping *coureurs des bois* had established posts and settlements before the English colonists were ready to cross the mountains. Chapter iii of *Indiana* contains a very interesting account of these *coureurs des bois* and their ways. In 1727 the Mississippi company established Port Vincennes on the Wabash; meanwhile the Ohio Company had sent traders by way of the Tennessee and the Cumberland, who poached on what the French regarded as their preserves. De la Galissionère and Du Quesne expelled the intruders; the troubles culminated in war; and in 1760, after the fall of Quebec, all the Western country was surrendered to Great Britain by the capitulation of Montreal. The claimants of the ceded territory were numerous; the English colonies extended indefinitely westward by their charters, and some, like Virginia,

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ad made bounty grants to their militia or had encouraged land companies. The squatters and traders poured in from Virginia and Pennsylania and fought with the Indians and with each other. But the only ettlements were those made by the Moravians at Gnadenhuetten and choenbrunn, Ohio. Chapter v of *Ohio* contains a very interesting ccount of this curious communistic *civitas dei*, which, spared by the avage Indians, was destroyed by the rival brutalities of the English and 'irginians during the Revolutionary war.

The ceded territory was annexed for administrative purposes to the rovince of Quebec, by that Quebec act which Bancroft denounces so trenuously, because it left the inhabitants without a share in the governnent and without the benefit of the writ of *habeas corpus*. The inhabiants were almost exclusively Frenchmen, who did not participate in he Anglo-Saxon desire for self-government, who were ignorant of the eauties of the common law and the blessings of *habeas corpus* and who ad no desire for this trinity of benefits. The Quebec act was objectionble to New England because it tolerated Catholics. The connection as severed by the treaty of Versailles in 1783, after the Northwestern erritory had been the theatre of several campaigns in which George Rogers Clark (the "Hannibal of the West," Mr. Dunn magniloquently alls him) and the Virginia militia distinguished themselves. The parties to the cession were the King of Great Britain and the United States; ut, by what can be regarded only as an act of sheer usurpation, Virginia ad organized the territory northwest of the Ohio into the county of llinois. Other commonwealths also claimed sovereignty over portions f the territory, and the Northwestern Indians, exasperated by ill-treatnent and inspired by the British agents at Detroit, resolved to extirpate he Americans. The refusal of Maryland to enter the confederation nless these commonwealths should release their claims to the United States brought matters to a crisis, and between 1781 and 1786 all their ight and title were ceded by New York, Virginia, Massachusetts and Connecticut, the second and the last named commonwealths reserving espectively the Virginia military district and the Western reserve.

The ordinance for the government of the territory provided for three tages in its development: first, the provincial stage, where the executive nd the three judges, appointed by the United States government, were mpowered to re-enact any of the statutes of the original states for the Northwestern territory; second, the representative stage (to which the erritory might advance as soon as it contained 5000 free white males), where legislative powers were vested in an elective assembly and a counil of five, chosen by the president from a double nomination submitted y the assembly; third, the commonwealth stage. The ordinance also ontained the famous prohibition of slavery — which, under the treaties

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with Great Britain of 1783 and 1794, was interpreted to prohibit the importation of slaves and the enslaving of negroes born after July 13 1787 — and the clause for the encouragement of religion, morality and knowledge as essentials of good government. The discussion of the slavery clause in *Indiana* is very valuable and instructive.

In the same year, 1787, the Ohio company of Revolutionary officers obtained its grant of one and a half million acres on the Muskingum and the Scioto company of New York land speculators received three and a half million acres on the Scioto. The Indian title to Ohio east of the Scioto had just been extinguished, and that part of the territory alone was organized as the county of Washington, with St. Clair, late president of Congress, as governor. The members of the Ohio company settled at Marietta; the Scioto company sent Joel Barlow to Paris, where his glib words attracted over a colony of Frenchman who were little used to frontier life, and most of whom died of fever at Gallipolis. The Miami company, formed in New Jersey, settled Losantiville (Cincinnati); the Virginians founded Massieville (Manchester); and the Connecticut land company, Cleveland. In 1798 the territory entered on the second stage, and sent W. H. Harrison as delegate to Congress, where he secured the passage of a law providing for the sale of public lands on long credits in sections and half-sections, instead of in parcels of 4000 acres as formerly, thus opening them directly to small purchasers. Wayne's victory and Jay's treaty had broken the power of the Indians and removed the British agents who animated their hostility. In 1800 the territory was divided into Ohio and Indiana; and in 1803 Ohio became a state with Chillicothe as its capital. In 1806 the building of the national turnpike formed a great link between Ohio and Virginia; the Erie canal in 1825 connected the new state with the Atlantic, and was the incentive to the construction of the Ohio canal and the Miami and Erie canal. Mr. King devotes only five lines to the turnpikes and railways of Ohio; his treatment of the public schools is also unsatisfactory.

After the separation in 1800, Indiana territory relapsed into the provincial stage with W. H. Harrison as governor. Many of the settlers desired to introduce slavery; three attempts had been made before 1800. In 1804 the governor exercised the power vested in him of proclaiming the representative stage. At its first session, the territorial legislature introduced slavery by the indenture of negroes, which was proclaimed constitutional by the courts of Indiana. In 1809 the territory of Indiana was cut down to the limits of the present state; and the anti-slavery party, being relieved of the incubus of "Egypt" (southern Illinois), pushed the fight, and the next year (1810) the indenture law was repealed. In 1816 Congress passed an enabling act, and a constitution was adopted which re-enacted the prohibition of slavery of the Northwestern ordinance, and

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declared in addition that no indenture of a negro made outside of Indiana should be binding there. This clause was regarded as merely prospective until 1820, when the decision in the friendly suit of State *vs.* Lasselle (1 Blackf. 60) declared it retrospective. The case never reached the United States Supreme Court; that tribunal would probably have found that it violated article i, section 10, clause 1 of the constitution, which forbids every state to pass laws impairing the obligation of a contract.

With the redemption of the state from slavery, Mr. Dunn's work comes to an end; Mr. King's book contains an interesting chapter on Ohio in the Civil war. A list of authorities and two or three historical maps would add greatly to the value of both volumes.

ROBERT WEIL.

De l'organisation des partis politiques aux États-Unis. Par M. OSTROGORSKI. Paris, Felix Alcan, 1889. — 98 pp.

It is a fact with a moral that foreign students of American party politics are almost unanimous in reaching conclusions that coincide with what are known here as Mugwump ideas. Von Holst and Bryce are leading examples of this fact. The author of the pamphlet under review contributes a less profound illustration of the same tendency. M. Ostrogorski has made an intelligent and in general a very accurate study of party organization and methods; of party principles he has little to say. He sketches the rise and fall of the old legislative caucus; the origin and development of popular party conventions; the concentration of the controlling power in standing committees, state and national; and the evolution of those familiar products of American politics, "rings" and "bosses." In this succession of dominant characteristics in party organization he discerns a succession of philosophic principles. The legislative caucus marks the régime of the aristocratic oligarchy; the early nominating conventions were the work of the democratic tendency which made Jackson possible; the era of committee control was the reversion to oligarchy, though of a lower type than the original; while the current prevalence of "bossism" denotes the triumph of a vulgar and demoralizing autocracy. This analysis is striking, but its symmetry is perhaps a little forced. It is doubtful, at least, that the modern "boss" is more of a power in party politics than many an individual of *ante bellum* days who bore a less invidious title. M. Ostrogorski follows a certain school of American writers in extending the application of the term "boss" from its original significance, in describing a politician of the Tweed type, to the general designation of any eminent party leader, such, for example, as Roscoe

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Conkling. In this way the autocracy of "bossism" is made the crown ing characteristic of the present day. But certainly Conkling was n more of a "boss" in the Republican than Seward was in the old Whi party. M. Ostrogorski is not aware, probably, that the term "boss" i very commonly used to stigmatize a successful political opponent and i then no more significant of a profound philosophical development thai the term "liar" would be under the same circumstances.

The author traces the origin and influence of the spoils system witl much fulness, and concludes with a pretty complete notice of th various remedies that have been proposed for the evils resulting from it That his articles (the brochure is republished from the *Annales d l'École libre des sciences politiques*) were written in 1886 accounts fo the slight attention paid to the suggestion of electoral reforms on th line of the so-called Australian balloting system. He will doubtless be much interested in the very recent manifestation of a tendency to revive the old congressional caucus, by states, for the purpose of solving the toc absorbing problem of distributing the spoils.

Inaccuracies of fact in M. Ostrogorski's work are rare and unimportant. His assertion that the traditional programme of the Whig party was opposed to slavery shows the influence of von Holst, who is very dubious authority on anything pertaining to the "peculiar institution." A. H. Stephens and Robert Toombs, who, if not better Whigs than von Holst, at least had the advantage of a more immediate connection with the party, would scarcely subscribe to this view of its principles. In calling Genet a Jacobin, M. Ostrogorski is guilty of a slip one would hardly expect to find in a work originating in Paris.

In dealing with proper names and English quotations, either the author or the proof-reader has been very unfortunate. Prominent public characters masquerade as President "Phillmore" and "Amoss Kendal"; well-known contemporary writers on politics, as "F. W. Withridge" and "Williams M. Ivins." Senator Allen is made to say of the principle of rotation in office: "It *lays* at the *fun*dation of our system." This is borrowed from von Holst, who, however, gives the sentence in real English. And R. H. Dana is made to say of a scheme of reform: "He has proved a complete failure."

On the other hand, there is something agreeably quaint in such attempts to Gallicize our political slang as are successful. It is like a journey to a new land to read of Jackson's "*cabinet de cuisine*" and "*les tireurs des ficelles*" and "*le* caucus *emballé*." "Bosses" and "rings" and "primaries" and "gerrymandering" defy the author's French; while "*la convention* cut and dried," "*la* machine *implacable*" and Flanagan *du* Texas are creditable compromises.

WM. A. DUNNING.

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Histoire du Commerce de la France. Par H. PIGEONNEAU, professeur à l'École libre des sciences politiques. Paris, Leopold Cerf, 1887–89. — Two vols., 8vo, vii, 468 and 486 pp.

Before the appearance of the first volume of M. Pigeonneau's work, in 1884, a general history of French commerce beyond the scope of school manuals was a desideratum. This is somewhat remarkable, as there were excellent local histories of the commercial towns, while some of the special investigations like those of de Mas Latrie on the trade with Africa and the East, of de Wailly on the coinage, and the great work of Bourquelot on the "Fairs of Champagne," rank in thoroughness and learning among the best productions of modern scholarship. The material was ready and the field open, and we may rejoice that the opportunity was improved by so competent a scholar as Professor Pigeonneau. He proposes to bring his work down to the end of the old régime in three volumes. Should this be happily accomplished, he hopes to take up the modern period.

The first volume begins with ancient Gaul and brings the history down to the great discoveries. It is really a complete work by itself, and offers one of the most interesting and instructive pictures of mediæval commerce to be had in reasonable compass. After a short review of the history of Gaul under the Romans, the author discusses the social changes resulting from the Teutonic invasion. These did not completely destroy trade. In the sixth century there was still some activity. The relays of the posts were in operation; the Roman roads were kept in repair by the Merovingians; heavy carts drawn by teams of oxen or horses transported merchandise, and the tow-paths on the river banks were still maintained. But with the decline of the Merovingians, these signs of commercial life fell into decay, and brigandage and piracy became prevalent.

The effect of the crusades in awaking enterprise is shown by the profound impression created by the wealth and splendor of the East. The *chansons de geste* and the romances are full of descriptions of Persia, Armenia, and Khorassan; the name of Samorgant (Samarkand) became familiar; while the *trouvères* frequently refer to the rich stuffs of Syria and Constantinople, the carpets of Persia, the pearls, precious stones, and perfumes of Arabia and Palestine. The transportation of pilgrims became a prominent feature of the trades of Arles and Marseilles. A regular passenger traffic existed. The pilgrims travelled in large companies organized with a leader, regulations, and a common purse. A contractor (*cargator*) or kind of tourist-agent took charge of the supplies and other details, and "personally conducted" the company. The authorities established careful regulations for the protection

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of the travellers, yet it is probable that they were much exploited and that the agents made great profits.

One gets an idea of the prevalence of local tariffs in the middle ages from the statement that even after the great trading companies in the fourteenth century had succeeded in having the number reduced, there were 74 tolls on the Loire between Roanne and Nantes, 60 on the Rhone, 70 on the Garonne or on the land routes between Réoul and Narbonne. But one of the most serious obstacles to trade in the middle ages was the great variety and unsteadiness of the currency. In the second half of the thirteenth century some 200 to 250 bishops and barons exercised the right of coinage, and many allowed no coins but their own to circulate in their territories. By 1315 this number was reduced, through the efforts of the crown, to 31. In no country was debasement of the coinage so flagrant as in France. In the time of Charlemagne the *livre* contained 409 grammes of fine silver; under Philip Augustus, from 96 to 100; at the end of the fifteenth century, 22½; and in 1590, only 12.88. The *sou* of Philip Augustus was a silver coin of about the weight of a franc, with a purchasing value perhaps ten times as great; the weight of the *sou* of Henry IV. was equal to only 14 centimes. Thus since the time of Philip Augustus the *sou* has lost nineteen-twentieths of its weight, while its purchasing value is about one-half of one per cent of what it was then. The greater part of this change took place in about 350 years. Part of this gradual loss of weight was undoubtedly caused during the earlier period by the supply of the metals being inadequate to the growing needs. There were, however, in the thirteenth century several great improvements in the conditions of exchange: notably the coinage of gold; the reformation of the royal money and its enforced circulation through all France; letters of exchange; banks of deposit, discount and clearing. The earliest known letters of exchange are dated 1205, and their use became general by the middle of the century.

Protectionism begins to appear in the early fourteenth century. The *ordonnance* of 1305 is infused with its spirit, and curiously enough it begins with a maxim that does brave service to-day in the same cause: "Charité bien ordonnée commence par soi-même." Its growth from that time is steady.

Only a few specimens of the contents of the first volume have been given, hardly enough for the reader to form an adequate idea of the many interesting details which Professor Pigeonneau has brought together. The second volume contains perhaps less that is novel, as it deals with a more familiar period. It describes the participation of the French in the discoveries and colonization of the sixteenth and seventeenth centuries; the growth of the protectionist spirit; the vain exper-

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ments in sumptuary legislation; the origin and development of the French canal system; the devastation of the religious wars, and the generally wise and helpful policy of Henry IV and Richelieu. Professor Pigeonneau admires Henry IV particularly for the judgment with which he compromised between the free-trade policy of Sully and the thorough-going protectionism of Laffemas. "Il se contente d'être homme de bon sens et homme d'État; il savait mieux que personne que la politique est, en toutes choses, l'art de compromis." His death and the weak and vacillating policy of Marie de Médicis seriously set back the industrial progress of France.

The immense improvement in the condition of France upon the revival of agriculture after the civil wars, and further after the application of scientific methods, attracted marked attention. It was noticed that Spain, in spite of the wealth from the mines of America, was growing poor. The resources of a fertile soil were contrasted with those of Peru. Sully, in whose policy the encouragement of agriculture became a leading feature, said: "Le pâturage et le labourage sont les deux mamelles dont la France est alimentée, ses vraies mines et trésors du Pérou." Monchrétien, in his *Traité de l'Économie politique* (1615) remarks: "La moindre des provinces de la France fournit à vos Majestez ses bleds, ses vins, son sel, ses toiles, ses laines, son fer, son huile, son pastel, la rendant plus riche que tous les Pérous du monde." It occurs to one that in this revival of agriculture and the impression of the beneficial results accruing to France therefrom, and this enthusiastic praise of the resources of the land, we may find the origin of the later doctrine of the physiocrats with their over-estimate of the function of land in production.

France was the first of modern nations to recognize the Turk as a legitimate European power; and by this recognition she sought to gain commercial as well as political advantage. A treaty of commerce was signed in 1536; and in the next century a school of languages was maintained in Marseilles for training clerks, foreign agents and interpreters. But although France gained a position in the Mediterranean rivalled by Venice only, yet the result was a disappointment, for the great day of the Levant trade was past forever.

Professor Pigeonneau's work is not only valuable for the economic student, it is a most instructive companion to the ordinary political histories of France. It aims to present a picture of the past and its commercial life, and discusses theories only so far as is necessary to interpret the narrative. The style is smooth and clear. The volumes are well got up, and are provided with occasional illustrations, chiefly from contemporary cuts or illuminations.

EDWARD G. BOURNE.

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L'Indo-Chine française. Par J. L. DE LANESSAN. Paris, Felix Alcan, 1889. — 8vo, 756 pp.

There is no more important political question in Europe than whether France is to remain one of the great powers. She has already passed through many periods of depression and emerged more powerful than before. If she now possesses less influence in Europe than she had fifty years ago, this may show only a period of weakness and not a period of decadence. At all events, the nations who wish to remain the great powers of the world feel the necessity of extending their dominion beyond European limits. With a population that is nearly stationary, no nation seems more in need than France of new territory over which her language and civilization may spread.

M. de Lanessan has written an instructive book about the French possessions in Indo-China. He has described the condition of the people, the extent of their trade and their relations with the French with great fulness, with great fairness and at great length. In Cochin-China, Camboja, Annam and Tonkin, there are 18,000,000 natives who in a greater or less degree are subject to the rule of France. The French administration has not been wholly successful, but it is too soon to pronounce any definite judgment upon its character. The protectorate of France has been acknowledged in most of this great region for less than twenty years. Cochin-China alone has been organized as a French province. The other states are under that ambiguous control which usually ends in the inferior race becoming wholly subject to the government of the more powerful one. The climate of Indo-China is such that a large European population will not reside there. Europeans will be sojourners, as the English are in India, and not emigrants and settlers as they are in Australia. But the soil of some portions, especially in Cochin-China, is fertile; and if roads could be built, forests cleared and swamps drained, all these countries are susceptible of a large development in trade, wealth and population. Thus far, the progress which should result from the influence of a more civilized people has been but moderate. The entire exports in 1887 were only about $12,000,000, and over four-fifths of these came from Cochin-China. With a population of less than 2,000,000 her imports and exports far exceed those of Annam and Tonkin with 16,000,000 of people. The most discouraging feature is that the totals, in 1887, were less than in 1885. While taxes grow larger, trade remains stationary. The French themselves secure only a small portion of this commerce. Of the imports into Indo-China for 1887 less than one-fifth came from France. Over all this country the Chinese spread themselves, seizing the trade from those who cannot compete with them either in activity or economy. They are looked

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upon with no friendly eyes by French and English competitors, but still they come and prosper. They lend money to the farmers at thirty per cent; they keep gambling houses, in which prostitutes meet their victims, servants waste their wages, and officials squander the funds in their charge; they sell goods cheaper than their rivals, and they exhibit that combination of energy, shrewdness and viciousness for which they are pre-eminent wherever they find a footing in Europe, Asia or America.

The chief evil in the French administrators, according to our author, is that they seek to intrude the customs and the laws of their own country with too little attention to the habits, the prejudices and the superstitions of those under their rule. Like the French philosophers of the last century, they refuse to recognize the infinite differences in manners and morals among different classes and races of men. They wish the natives to become civilized Parisians, while these prefer to remain ignorant Annamites. The missionaries desire to make the inhabitants Christians, and they have a strong preference for remaining heathen. Hence the feelings and prejudices of the natives are wounded; and the Frenchman, who might be regarded as a benefactor if he would confine himself to improving roads and enlarging trade, is regarded as an oppressor when he snubs a mandarin and lights his pipe in a pagoda. Such evils always attend the meeting of a higher and lower civilization, and time alone can determine whether the French occupation of these populous countries will result in the mutual advantage of the invaders and the invaded.

JAMES BRECK PERKINS.

La France provinciale: vie sociale, mœurs administratives. Par RENÉ MILLET. Paris, Librairie Hachette et Cie, 1888. — x, 330 pp.

At a time when the political future of France is viewed with distrust by almost every observer; when her last experiment in government seems about to succumb to the same untoward fate that has overtaken all her experiments for a hundred years, it is, to say the least, extremely refreshing to meet any one — especially a Frenchman — who has faith in his country's political capacity, and a strong belief that, under all the apparent disturbance and disorder of the present, there is a powerful current in France in the direction of peaceful government and orderly administration. This belief is held by M. Millet, and he has written *La France provinciale* to express it. The text of the entire work is that "Paris n'est pas la France," and that in French provincial life are to be found the reserves of strength which will ultimately save the country from the excesses of the capital. M. Millet examines one by one the elements which go to make up "la vie provinciale" and, by an analysis

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which seems as just as it is artistic, shows that under the rude and, to the Parisian, unattractive exterior of the "gens de province" there are truer hearts and more loyal instincts, greater political capacity and stronger faith in the future of France than can be found in the more polished citizens of the metropolis. M. Millet calls attention to one fact of the first importance which is often ignored: that the whole course of administrative legislation, not merely since the establishment of the present republic but from an earlier date, has been towards decentralization. The powers of the various local authorities have been greatly increased; and (to say nothing of the municipalities) there have arisen, in each of the eighty-odd departments into which France is divided, a local legislature and popular administrative authorities, which are not only assuming more and more powers, but are year by year turning out a large number of citizens accustomed to the exercise of public power and endowed with that moderation and those more practical ideas which are so apt to result from the discharge of public functions.

Of course much remains to be done before France can possess any system of local government like our own or even like that of Germany. As M. Millet points out, the financial relations of the central and local authorities are much too close and the central control over the acts of the localities is much too strict to permit local spirit to develop as it should. But much has been accomplished which must tell on the near future.

M. Millet's hopeful view of the French political situation must infuse itself, to some degree, into the minds of his readers. Some of them may think his view too optimistic, but no one can lay his book down without feeling that there is more hope for France than is commonly assumed; that the saving "remnant" is larger and more powerful than is commonly believed.

It is almost praise enough for a book to say that it must influence the reader's opinion; but one thing more must be said of M. Millet's work: it thoroughly gratifies the reader's taste. The style has that charm of finish which is commoner in French work than in that of any other people, but far from common even in France.

To the student of politics, the book will be useful as a description of French political habits. There is nothing in a nation's civilization of which it is so difficult for a foreigner to gain a correct conception as its habits; and it is particularly difficult for an Anglo-Saxon to understand the ways of the French. In this respect, *La France provinciale* is invaluable. One might read volumes of laws and of legal treatises and not carry off so true an idea of the way the French do things as can be obtained from this little book.

F. J. G.

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Le Corporazioni d'Arti e Mestieri e la liberta del commercio interno negli antichi economisti Italiani. Studio del Dott. GUISEPPE ALBERTI. Milano, Hoepli, 1888. — 8vo, 458 pp.

In this elaborate treatise we have the work of a young pupil of Professor Cossa, who has evidently been inspired by the cyclopædic accomplishments of his preceptor. It is an attempt to give a comprehensive review of the opinions of all the Italian economists down to the end of the last century on the question of restriction or freedom of internal trade and industry. Doctor Alberti has not only patiently waded through the fifty volumes of Custodi's collection of the *Economisti Italiani*, but has collected all the economic writers in Piedmont, Lombardy, Venice, Tuscany, the Papal States, Naples and Sicily, and has given us excerpts from and explanation of their views on the guild and restrictive system. He has also made plentiful extracts from the English, French, German, Dutch and Spanish writers, but has taken these mostly at second hand from the general histories. The consequence is that we have a hodge-podge of good and bad; for where so many writers are mentioned the majority are sure to be of little importance. The author practically admits that all the Italian reformers followed the lead of de la Court, Cliquot de Blervâche, Turgot and Adam Smith, — and his work will be interesting only to those who desire to pursue more minutely the progress of economic thought in the restless states that made Italy a "geographical expression." Dr. Alberti finds that the development of theory away from the system of mediæval restriction was due to four causes. These were the current of free trade, by which is meant the freedom of exportation; the current of mercantilism, which desired national expansion, and broke down internal barriers while setting up external restrictions; the current of agrarian protection, which desired free internal trade in corn; and finally the physiocratic current, which desired freedom in all commodities, in commerce as well as industry. This is all true so far as it goes, and Dr. Alberti does well to emphasize the point (so frequently overlooked by English writers) that mercantilism was in reality a movement of progress from mediæval restriction to modern liberty. But Dr. Alberti does not by any means exhaust the catalogue of influences that brought about modern freedom of trade and industry. He does not dig deep enough, and we must not expect to find in his book a true philosophy of the free industry argument.

Like so many continental works, the book is wofully in need of an index.

E. R. A. S.

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Profit Sharing between Employer and Employee: A Study in the Evolution of the Wages System. By NICHOLAS PAINE GILMAN. Boston and New York, Houghton, Mifflin & Co., 1889. — 12mo, 460 pp.

A Treatise on Co-operative Savings and Loan Associations. By SEYMOUR DEXTER. New York; D. Appleton & Co., 1889. — 16mo, 299 pp.

Five years ago a student of the labor question would have looked in vain for an American account of American or European experiments in profit sharing, and he would not have found riches had he sought for American writings on the more familiar subjects of co-operative production, distribution and saving. But a considerable interest in these phases of the industrial problem has been awakened, and within a very short time several important books and monographs dealing with them have come into existence. The comprehensive *History of Co-operation in the United States*, by Johns Hopkins University men, was reviewed in the POLITICAL SCIENCE QUARTERLY, for September, 1888. Now we have an elaborate, scholarly treatise on profit sharing, that in a good degree will supersede all previous works on the subject, and a full, trustworthy manual of co-operative savings and loan associations.

Mr. Gilman's book has been written as one would wish to have such books written always, without hurry and with a due regard to literary art as well as to scientific thoroughness. A mass of material that in the hands of an unskilful writer would have made a very dry and very bulky volume has been compressed within readable limits and made interesting. The sketch of Leclaire's personality and achievements, the most complete that has appeared in English, is a bit of biographical writing as charming as it is unpretentious. Merely as a work of reference Mr. Gilman's book will be invaluable to students. Every source of information has been explored for facts. The author has been in direct correspondence with all the more important profit-sharing houses on both sides of the Atlantic. He has had the cordial assistance of the best qualified students of the subject, and he has drawn freely, not only from the writings of Dr. Böhmert, Dr. Frommer and Mr. Sedley Taylor, and from the Bulletins of the French society for the Study of Participation, but also from the minor literature of profit sharing, as the numerous references and the exhaustive bibliography prove. Not only is much of the matter entirely new, but much new light is thrown on the more familiar cases. This is true especially of the famous Whitwood colliery case in England and the Brewster case in New York. The mere narrative of actual experiences and description of plans occupies 295 pages. There are three chapters of accounts of profit sharing on the continent,

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ne each on English and American experiences, and a separate chapter n profit-sharing attempts that have failed or have been discontinued. . full index makes every fact available.

Mr. Gilman rightly describes his book as a study in the evolution of ıe wages system. The reasons for believing that the wages system atisfies in the main the conditions of modern industrial life are clearly tated. But profoundly convinced as he is that the wages system cannot e displaced by anything radically different, Mr. Gilman is no less certain hat it must undergo a further evolution. The payment of money wages s a method of rewarding labor itself grew out of a more primitive pro- luct sharing, the evolution of which our author has traced with consid- rable care and detail. The regularity and certainty of the laborer's eward, which the wages system guarantees, is at the expense of that ariability which was characteristic of product sharing, and Mr. Gilman nakes a good point by insisting on the neglected fact that mere varia- ility, apart from any other consideration, affords gratification to the ommon human nature of both employers and employed. The familiar nodifications of simple time wages, such as piece wages, premiums for uantity or quality of work, or for economy, the sliding scale, *etc.*, are ll attempts to combine the variability of product sharing with the regu- arity of money wages. Mr. Gilman judiciously estimates all these plans nd finds them all imperfect. They are really more defective than he hows, for he fails to note the radical defect of piece wages in the emptation that they offer to the employer to put the rate so low that he best workmen can make by their utmost exertions only the prevailing vages paid for time work. Turning then to profit sharing, the impartial eader must admit that the results of a long and varied experience fully ıear out all that Mr. Gilman claims for it. In a chapter of summary nd analysis he has tabulated the entire record of profit-sharing experi- nce. It is a convincing showing; demonstrating that profit sharing is ı fact a natural and beneficial development of the wages system, admit- ing of wide, perhaps of general, though no one would affirm of universal, xtension. In a few conspicuous cases circumstances have conspired o make failure inevitable in spite of honest intentions and good man- gement, but for the most part the failures — which Mr. Gilman con- cientiously records — serve simply to show how not to do it.

In presenting the argument for profit sharing, Mr. Gilman eschews leduction from *a priori* premises and confines himself strictly to induc- ion from the facts. His conclusions are: that the division of realized rofits between the capitalist, the employer and the employee in addition o regular interest, salary and wages, is the most equitable and generally atisfactory method of rewarding the three industrial agents, and that it dvances the prosperity of an establishment by increasing the quantity

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of the product and improving its quality, by promoting care of implements and economy of materials, and by diminishing labor difficulties and cost of superintendence. These conclusions would have been fortified had Mr. Gilman defined their application. So long as industrial conditions are such that in many occupations laborers of a low standard of life are more available than better developed men, while recurring changes in methods of production render all employment uncertain, the wages system cannot everywhere grow into the profit-sharing form. Indeed, the very conception of profit sharing as a higher evolution of the wages system would seem to restrict it to favorably conditioned undertakings, offering a competitive advantage to superior men.

It is not probable that any one else will attempt to go over the ground covered by Mr. Gilman with such thoroughness for a long time to come. His book will be the standard work on the subject for the use of both students and profit-sharing employers. It is in every way worthy of such distinction.

Mr. Dexter has undertaken to make a complete hand-book on the subject of co-operative savings and loan associations, and he has succeeded well. He has written from personal experience as a member of such associations, supplemented by thorough comparative study. The result is a book that not only explains clearly the principles upon which the typical association is founded and describes the numerous modifications now in operation, but corrects numerous false impressions and points out the methods of organization and conduct that are safe, equitable and successful. The chapter on the growth of these associations in the United States adds little to the report presented by Mr. F. B. Sanborn to the American Social Science association in 1888, but the development of the plans that they embody and the advancement made in the methods of conducting their affairs are separately and instructively reviewed, and the business methods of co-operative banking are subjected to the intelligent and detailed criticism that has long been needed. Elaborate directions are given for organizing associations and for keeping accounts. An appendix contains the co-operative savings and loan association laws of New York, Pennsylvania, Massachusetts and Ohio, and forms of bonds, mortgages, assignments, notices, *etc.* The book is thus very complete, and it may be recommended as also accurate in its statements and sound in its criticisms and suggestions. Mr. Dexter believes, with Mr. Sanborn, that with all allowance for shortcomings and mistakes these associations are the most potent agency for stimulating steady savings, industry, home owning and good citizenship among persons of small incomes that has been yet devised and put into operation.

F. H. GIDDINGS.

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History of Taxation and Taxes in England, from the earliest times to the year 1885. By STEPHEN DOWELL, Assistant Solicitor of Inland Revenue. Second Edition, revised and altered. London and New York, Longmans, Green & Co., 1888. — 4 vols. 8vo, xxix, 244; xviii, 586; x, 312; xiii, 465 pp.

Reports from the Consuls of the United States [on European Taxation]. Nos. 99 and 100, Nov. and Dec. 1888. Washington, Government Printing Office, 1888. — 8vo, pp. 260–791.

Traité de critique et de statistique comparée des institutions financières, systèmes d'impôts, et réformes fiscales des divers États au XIXe siècle. Par E. FOURNIER DE FLAIX. Première Série. Paris, Guillaumin, Larose et Forcel, 1889. — 8vo, lvi, 587 pp.

It is a pleasure to announce that so bulky a work as Mr. Dowell's *History of Taxation and Taxes in England* should in the short space f four years require a second edition. It would be ungrateful not to ecognize the strong points of these, in many respects, admirable volumes, specially as the new edition contains several marked improvements. ıdditions have been made (*e.g.*, to the chapter on tobacco taxes) and olume ii has been enlarged by a number of valuable appendices. The hole work has been re-arranged much for the better, and convenient ummaries and indices have been introduced. The chief improvement, owever, is one to which only slight attention is called in the preface; *iz.* in the treatment of the customs duties. In the first edition the iscussion of this subject was most inadequate and fragmentary. In his edition advantage has evidently been taken of Hubert Hall's recent *History of the Custom Revenue* to amplify the narrative. But even thus he account is by no means complete nor even always accurate. Thus o explanation is given of the gradual conversion of the Roman toll *theloneum*) into the Teutonic custom (*consuetudo*), nor is the connection between prisage and purveyance at all clearly explained. No mention at all is made of the staple, and in later centuries the corn laws eceive very scant attention.

The two chief criticisms on Mr. Dowell's work are the same that night have been urged against the first edition: the utter failure to ive an account of local taxation, and secondly, the lack of a wider cientific perspective. Although local taxation played a smaller rôle luring the early middle ages in centralized England than in the disointed monarchies of the continent, yet even in England it formed a onsiderable share of the citizen's burdens. The towns were the real irthplaces of modern taxation. In modern times, moreover, local axation has become so important and so intricate that no history of

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taxation can be declared at all satisfactory which fails to trace its origin and development. The materials for such a history are now ample This is a great omission in Mr. Dowell's volumes.

The second criticism is a more delicate, although a more serious one Mr. Dowell is a painstaking historian, but he is not a trained economist He is an annalist, but not an analyst. He gives us facts, but fights shy of discussions. In this respect his work is inferior in parts to Vocke's *Geschichte der britischen Steuern*. He gives us, *e.g.*, no account of the deeper reasons why and how the fifteenths and tenths became the chief direct tax of the middle ages, and why the property tax has been superseded by the income tax in modern times. He avoids a discussion of the principles of the income tax and of the finer questions involved although the two parliamentary commissions and three bulky reports should have forced the problems on his attention. The off-hand manner in which he dismisses the subject in a few lines (volume iii, page 122) is not worthy of a real economist. In fact, here as elsewhere, *e.g.*, in the case of Walpole's excise scheme in the eighteenth century, Mr. Dowell pays no attention at all to the rich English literature on the subject, of which Sinclair has given us so complete a bibliography, not to speak at all of the numerous studies in foreign languages. To write a perfectly satisfactory history of taxation, one must be not only a "practical financier," but also well trained in the principles of economic theory.

It was an idea of very questionable value to attempt a presentation of European finance in the *Reports from the Consuls of the United States* on taxation. Our consuls are not especially noted for their scientific training or economic knowledge. While the aspiration to disseminate among our public an acquaintance with foreign systems is in some degree laudable, it may yet be seriously doubted whether a helter-skelter jumble of good and bad, like the present collection, will really be of any service. The contributions are of all sorts, from a few fairly accurate and full accounts to the most lamentably confused and incorrect descriptions. We cannot, perhaps, expect our consuls to be masters of English, but we do have a right to expect that the supervising officers of the State department will perform some function of control and excision. Phrases like the following are amusing, if not worse: "juridic controls of administration law"; "taxes of quota are such as are eventual"; "matricular lists"; "domainal revenues"; "earning taxes"; "mobiliary imposts"; "collocation of sums"; "taxes of statistics"; "the graduated tax devolves upon the prolongation of companies" — and pages of similar gibberish. If many of the reports are to be at all useful, it will be necessary to translate the consular English into the Queen's English or, at all events, into readable American. It would,

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course, not repay us to mention the hundreds of minor mistakes and apprehensions in which the volume abounds, as it is not likely that dents will go to it as an authoritative source of information. It uld have been far better for the government to send out a special nt, trained in finance and master of English. The one redeeming l really valuable part of the volume is the excellent collection of all chief town and county budgets in the European states. These form most complete presentation thus far published in any country.

The advantages of having such a survey written by one hand are seen M. de Flaix's *Traité de critique et de statistique comparée, etc.* M. de ix is known as the author of the *Reforme de l'Impôt en France*, of ich the first volume was published four years ago, and of which the ond and third volumes, as he informs us, are nearly ready. In order to make that work too unwieldy, M. de Flaix decided to publish a nparison of France with other countries separately. In the present ume, therefore, we have the first instalment of the exposition and nparison, including the four great European powers (but excluding ance) together with the United States and the chief British posses- ns. The *Traité* contains a pleasantly written narrative of the finan- l organization and institutions of each country. It is at the same ie more and less than a portion of the science of finance. It is more, cause the author devotes some space to the general political and indus- al condition of each nation — a fact which adds to the general but not the purely financial interest of the work. It is less, because the author empts simply to expound the facts, without any serious analysis or ticism. M. de Flaix says that he reserves the criticism for a future lume of his *Réforme de l'Impôt*, but it must be said that this disjointed thod considerably impairs the value of the work. The account of the ts, again, does not enter into details, while the bibliography given is ceedingly scanty. The chief criticism to be made upon the work, wever, is the lack of thoroughness and exactness. The description of e finances of the United States, *e.g.*, is wofully inadequate, and teems th mistakes. Thus it is said that there are only two kinds of taxes in nerica: taxes on property and taxes on consumption; that the com- onwealths agreed by solemn compact to reserve to themselves the ect taxes; that the income tax yielded seventy-two million dollars in 67 (the author here confounds the income tax with the taxes on gross ceipts, *etc.*); that the income tax continued until 1877; that with the ception of the income tax the federal government has never departed m its original financial methods (entirely ignoring the internal reve- e experiments of the Federalists, and during the war with England). istakes such as these are apt to render the critic very suspicious as to the other facts in the book for which no special authority is adduced.

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M. de Flaix's book cannot therefore be recommended as an entire trustworthy guide in details — being in this respect decidedly inferior the historical volume of Wagner. Its usefulness consists mainly giving the reader a good general survey of the leading movements financial development. Thus the chapter on England which occupi almost half the work (228 pages) is interesting above all for the cle account of recent reform projects — those of the Tories, the Libera the Radicals and the Socialists. In like manner the chapter on t fiscal and social reforms of Germany is exceedingly readable. It is be regretted that M. de Flaix, like so many of his countrymen, seer unable to combine clearness and attractiveness of form with thoroug ness in facts and methods.

E. R. A. S.

Kapital und Kapitalzins. Von Dr. EUGEN VON BÖHM-BAWER o. ö. Professor an der k. k. Universität in Innsprück. Zweite Abth lung: *Positive Theorie des Kapitals.* Innsprück, Verlag der Wa ner'schen Universitäts-Buchhandlung, 1889. — 8vo, 467 pp.

It will be remembered that four years ago Professor von Böhm-Bawe published a *History and Criticism of Theories of Capital and Intere.* This book was preparatory, and contained the promise of a later volur that should supply the constructive portion of the general work. T promise is now fulfilled: *The Positive Theory of Capital* appeared the beginning of the present year. The work is, essentially, a study the element of time in social economy. An analysis that others ha begun, and that some have even carried far enough to reveal the weal of scientific results to be gained by a successful completion of the stuc Professor von Böhm-Bawerk has undertaken from the beginning, entire independence, and has carried to such completeness as to prese a new and self-consistent theory of the nature and function of capi and of the origin and determining law of interest. That it is the or true theory of these subjects would be too much to say; but it is sa to say that no complete theory of distribution can hereafter be ma that shall not incorporate into itself an essential part of Professor v Böhm-Bawerk's study of time as an economic element.

To give here an abstract that shall do justice to the work is i practicable. Within the limits of this notice the best that can be do is to indicate a few of the fundamental principles on which the theory based, and the general direction in which they are applied.

Of these principles the first is that of the fruitfulness of indirect pr duction. Labor gets a larger return when it pursues a roundabc course. A man may take fish by hand, in shallow pools; but he fish to better advantage when he builds a boat and weaves a net. The

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ocesses delay the result; they put into the future the gratification that to result from the labor; but they make the return richer. Counting ery day spent on the intermediate products, boat and net, as well as e time spent in utilizing them, the gain realized per unit of labor is ormously increased. So wood-cutting is a more productive process en it takes, at first, the form of axe-making. If the interval of pro- ction be farther lengthened by elaborating the working implements, ere is still a gain to be realized; but it is a smaller one. If the mak- g of a first rude implement doubled the length of an industrial period, d at the same time quadrupled the product, it had the effect of ren- ring each day's labor twice as fruitful as before. If now we again uble the length of the productive interval it is not at all likely that we all a second time quadruple our product. We shall increase it, but e increase will be in a smaller ratio. As we elaborate implements, we ntinually increase our product per unit of labor expended; but the in is in a ratio that becomes smaller as the period of production is ngthened. The multiplying of industrial instruments, which is equiva- nt to quantitatively increasing capital, figures in the theory that we are udying as a prolonging of the interval of time between the application the initial labor of an industry and the reaping of its final fruits. his use of time is found to be subject to a law of diminishing returns.

The characteristic of indirect production is the creation of interme- ate products. Boat and net stand between the application of the itial labor of fishing and the realizing of its ultimate fruit. The axe at cuts trees, the steel that makes axes, the furnace that creates steel, c., all follow the initial steps of tree-cutting labor and precede the full alizing of its returns. Such intermediate products, in their entirety, nstitute social capital; and such is the conception that is substituted r all others that have gone by this name.

In the necessity of waiting for the results of indirect production lies e sacrifice entailed by the process. Future gratifications appeal to en with less force than present ones, and "commodities of the future" and at a discount in men's subjective valuations, as compared with mmodities of the present. This principle does not, indeed, operate dependently of a man's circumstances; he may be so well provided r in the present that no new article of necessity or of ordinary comfort n do him any immediate good; and in that case he must defer the e of such an article to a future period if he is to get any benefit om it. In this connection Professor von Böhm-Bawerk makes a con- se but complete analysis of the motives for accumulating capital. In neral, present gratifications are at a premium as future ones are at a scount in the subjective valuations of men, and commodities of the ture are depressed in their market value.

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These two principles, namely, that of the fruitfulness of indirect pr duction and that of the depreciated value of deferred results are prac cally applied to questions of interest and wages with an amplitude th makes it a doubtful service to here give even an indication of the ge eral course of the argument. The loaning of capital is treated as a dir exchanging of present goods for goods of the future. If such an exchan is to be an even one, the commodities returned must exceed those loan in amount. The excess in the amount repaid is an offset for the disco that the market imposes on goods of the future. In determining t amount of this *agio* an application is made of that theory of value w which the name of the author and those of other Austrian economi are prominently connected. This analysis of value furnishes a key th is essential to a solution of the problems of interest and wages.

Entrepreneurs' gains come also through the agency of a time interv but in this case they come through a "ripening" of commodities in t *entrepreneurs*' hands. Buy to-day commodities of the future, and y will get them at a discount. Keep them till they are needed and rea for use, and they will then be commodities of the present. The d count will then have disappeared. Your gains also resolve themsel into the premium that present goods command as compared with thc of the future. Circumstances may give you more than this; but in th case the excess of gain is something besides interest.

Interest is not gained by an exploitation of labor, though social re tions may be such as to place the laborer in some danger of suffering his dealings with capitalist employers. In its essence, interest is who just. Certain socialistic arguments on this point are refuted in the bo in a manner that is unanswerable.

A special feature of the work is its treatment of all capital as a fu for future consumption. A classical definition of capital makes one fo of it to consist in a store of food for the maintenance of laborers. has been difficult to discover anywhere in modern industry such a st ing operation as this implies, though, as Professor Patten has shown, t necessities of agriculture cause a certain counterfeiting of the proce Crops are harvested in autumn for the entire year because they cann be gathered at other seasons. Such an accumulating and storing of fo as the naïve statements of early economists describe nowhere takes pla If, however, we say, not that some capital is literally a store of food f laborers, but that all capital is capable of being viewed as constitutin in effect, a store of goods for the future consumption of society, we sh be on higher and safer ground. The intermediate products are all d tined to ripen into goods for immediate consumption. An axe is equiv lent to an accumulation of wood. A boat is, in effect, an accumulati of future fish. A loom is an accumulation of future cloth. It is easi

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show that all capital is, not literally but in effect, a store for future sumption, than to show that a distinct part of it is in literal fact such ore.

Another feature that distinguishes the book is the close identification he problems of interest and of wages. Labor is a commodity of the ure; a man works to-day on that which will be consumed a month a year hence. He must be paid in commodities of the present. He s to his employer future goods in exchange for present ones; and it lear that in the transaction both parties recognize the *agio* that the rket establishes in the case of such exchanges. The workman cannot ect to receive all the goods that, at the end of a productive interval, result from his efforts.

The limitations that preclude a farther analysis of the work prevent ended comment on it and exclude all controversy. It needs to be l, however, that the book rather invites than discourages a comple- ntary study of capital from a different point of view. It is an effect Professor von Böhm-Bawerk's analysis to resolve all capital into an ident of a prolonged and indirect mode of applying labor. Granted crude materials of the natural world, and granted mere labor and possibility of applying it in the roundabout way that is most fruitful, l a lapse of time will give us incidentally all our mills, tools, railroads,

The end attained is the satisfaction of wants by directly usable nmodities; we ultimately get houses, clothing, food, books, *etc.* The ginal means of getting them is labor; and the creation of capital is olved in our mode of applying labor. Now this implies that we may ce the usable goods that we possess to empty-handed labor as a cause, following the process backward through a certain productive period. e house that shelters us is the product of bare labor. The workmen ned aside from a direct course to make tools and materials, and in ir final labor they were assisted by these instruments. It may be that making the tools and materials they were aided by other instruments her back in the series. The starting-point must have been unaided or. Where, then, is this starting-point located? Is it at the begin- g of any ordinary productive period? It is rather at the very begin- g of civilization. In tracing any product of recent labor backward ough the chain of intermediate products toward the point where the cess began with unaided labor, we begin to trace what is practically infinite series. The house was made through the aid of intermediate ducts, such as lumber, brick, tools, nails, *etc.* Take any one of these l trace it toward its origin; are we nearer to the starting-point than en we were seeking the origin of the house? Not perceptibly. Nails re made by the aid of nail-cutting machinery; the machinery was de by a variety of other instruments; the iron was made by the aid

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of a furnace; and every one of the complex elements that enter into blast furnace has its indefinite series of antecedents. If we follow process back of the invention of machines we still have the serie simpler instruments, materials, buildings, *etc.*, as antecedent prod If we consider the intermediate products at any one time in existe these stand, not between mere labor and its ultimate fruit, but bet *past industry*, or labor aided by earlier instruments, and its ulti result. That which stands between bare labor and its final fruit literal fact, the sum total of all capital that has existed or that will In tracing the series of intermediate products backward we fail, w any limited period, to find a beginning in bare labor; and it is eas show that in tracing the series forward toward its ultimate fruit in u products we entirely fail, within a determinate period, to reach the The productive instruments of the present will be used to make instruments of the future; and these again will be used in the ma of still others. The series is endless on the side of the future as we on that of the past. If the limits that enclose what we treat as a pro tive period be the application of empty-handed labor on the one h and the realizing of the entire fruit of that labor in usable product the other, the period must be made as long as history, and the s must take account of all capital, past, present and future. Yet in a ing the law of interest we must deal with short and definite perio production. It is not probable that this difficulty has escaped the a author of the theory, but it appears not to be fully met in the itself. Here and elsewhere Professor von Böhm-Bawerk's study sug fields for farther study.

JOHN B. CLAR

Le droit et les faits économiques. Par A. BÉCHAUX. P Guillaumin et C^ie^, 1889. — 8vo, 303 pp.

One of the most important questions propounded of late in rel to higher education on the continent of Europe is that of combi instruction in social and economic science with instruction in law. in France and in Germany such a combination is coming to be rega as desirable; but French lawyers have been much more cordial their German *confrères* in the welcome extended to economic teac While all the French law faculties provide for instruction in econo such provision is made in very few of the German universities. German law student may of course attend economic lectures in philosophical faculty; but he is not required, nor is any serious att made, to induce him to do this.

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In France, however, the innovation met with considerable opposition; so much so indeed as to lead the French Academy of Moral and Political Sciences to offer, in 1884, a prize for the best monograph on the question; and it was as a result of this offer that M. Béchaux's book was written. The author received the prize, and his little work was crowned by the Institute of which the Academy of Moral and Political Sciences forms a component part. Since 1884 M. Béchaux has revised his work, which now contains a most valuable discussion of the interrelations and interdependences of law and political economy. An *avant propos* of about forty pages shows how necessary to the real jurist is a knowledge of the facts and laws of political economy. It is a most eloquent plea for the broadening of the legal curriculum, and a most energetic attack upon the method of teaching law which has been adopted not only in France but also in almost all other countries, not excluding our own. This method, M. Béchaux thinks, tends to call the student's attention solely to the arbitrary rules of law, which soon appear to him to be absolute truth, behind which he need never go, because they have been enacted by the sovereign power. Whether these rules are in conformity with justice or with economic needs is a question he is never encouraged to ask. All he is taught is that they are law. In M. Béchaux's opinion the mission of the jurist is twofold: he must, it is true, form and organize juristic science; but he must also promote legal reform, must encourage the progress of the law. To fulfil this mission he must of course study the rules of law, but this alone is insufficient. Since all rules of law must satisfy social needs, the jurist must be able to adapt the rules of law to the moral, political and economic necessities of a given society. He must therefore be acquainted with economic facts; he must know the effect of the law upon the society governed by it.

After having stated his position, M. Béchaux proceeds, in the main body of his work, to discuss the effect of the French law upon the most important social and economic relations, classing them as private and public. In the first he writes of such subjects as the family, private property and contracts. In the second he treats of labor, commerce, public charity and the public finances. Though this discussion is of interest mainly to Frenchmen, still the law of all countries has so much the same purposes, and M. Béchaux's comparisons of the French with other systems of law are so numerous, that no one interested in the questions discussed can fail to find in this part of the work much that is of value. M. Béchaux shows a strong anti-socialist bias, and his demands for reform in the law of his country are mainly based on the necessity of maintaining and fostering private property and the family. At the same time he shows great sympathy for the poorer classes, and

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demands important changes in the French law relative to labor, which in his opinion, is altogether inadequate.

M. Béchaux gives an unwarrantably broad meaning to the term economics, including within it many matters which others would include only within the far wider limits of social science. But his work is most valuable, not only as a criticism of the present method of legal instruction, but as a succinct analysis of the effects on social and economic relations of the most widely adopted modern systems of law.

F. J. G.

Penological and Preventive Principles, with special reference to Europe and America, etc. By WILLIAM TALLACK, Secretary of the Howard Association, London, 1889. — 414 pp.

Crime, its Causes and Remedy. By L. GORDON RYLANDS London, 1889. — 264 pp.

Mr. Tallack's work embodies the fruit of long experience seconded by careful reading. Its merit lies in a happy combination of enthusiasm and insight. The author's aim has evidently been to write a readable book, in which he has succeeded by the use of a wealth of concrete matter, sometimes slightly to the detriment of continuity and clear arrangement. Preventive principles occupy the first place, but the discussion of the causes of crime and the means of diminishing it, a subject so intimately bound up with the whole moral and economic condition of society, is necessarily scant. We have a forcible presentation of the evils of ill-advised charity, of the mistake of looking at things isolated from their surroundings, of the folly of being guided by popular opinion, and finally of the good to be accomplished by the spread of religion.

All prison systems are generally unsatisfactory — such is our author's introduction to the discussion of penological principles. This conclusion is reached after an account of the state of prisons in the principal countries, together with a statement of a few of the plans for their reform presented and put into practice. Certain conclusions which the author does not express force themselves upon the reader. Thus it clearly appears that very few countries have a prison system, *i.e.*, a fixed, definite, plan of organization and work. The state of prisons is in most countries the result of a modification of the totally inadequate institutions of earlier days with an occasional ingrafting of new principles. Belgium is the only state with a penal system logically carried through. England is making efforts in this direction, but that inequalities remain is amply testified by Mr. Tallack's work. Is not the ill-success of so-called systems to be ascribed in large part to what is in reality a lack of system? Certain much-vaunted plans have upon trial been gradually discontinued

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after passing into the hands of others than those who founded them. Their first success was undoubtedly due to the personal force of the founders. Their ultimate failure was, we believe, as often due to the lack of anything like plan and arrangement running through all the prisons as from inherent defects. Nowhere have the smaller local prisons been brought into line with the reforms carried through in prisons of the first degree. The reform of jails is felt to be the question of the hour in penological science. That reform is in its infancy, and perhaps to this fact must be attributed in some degree the failure of systems. One cannot escape the conviction that, however unsatisfactory systems may have been, many unreasonable demands have been made upon them.

In the following discussion of special topics (prison discipline, labor, *etc.*) the reasons why prison systems are unsatisfactory are given and the possibilities of improvement indicated. The suggestions of the author are often instructive. He believes in punishments increasing in severity with repetitions of the crime, and pleads for more just proportions in the sentences pronounced. The cause of justice is not promoted by long sentences for trivial offences; yet English courts have sent men to prison five years for stealing shirts, *etc.* (Page 170.) If there were any absolute ratio between the punishment and the crime, English judges would not show a predilection for the terms five, seven and ten years, almost neglecting the intervening periods. From similar facts American penologists have drawn the conclusion that it is advisable to leave the determination of the length of the sentence to the discretion of prison wardens, rather than to the unrelated efforts of a score or more of judges.

The book reviews the existing agencies for the suppression of crime, and seeks to find the correct proportions for their operations. Sentences should, the author believes, be short and sharp, served as a rule in solitary confinement, and not prolonged beyond the time when prison life may be said to have ruined the physical constitution. Hence he urges a maximum sentence of twenty years, with the abolition of capital punishment and life sentences. In the treatment of minor offences the use of fines, police supervision, in some cases of corporal punishment, might be more effective than that of prisons.

The conclusions are based upon extended observation, and give evidence of insight that carries conviction. It is clear that the prison question is not a single problem, but an aggregate of questions of detail. The indirect lesson of the book is that deep-seated changes and reforms are the result of general causes affecting the motives of human actions, and not of the perfection of institutions. This may be a truism among men of science, but there must be constant recurrence to it to check the zeal of popular reformers.

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Mr. Rylands' work shows also our limitations in the discussion of th causes of crime. Beyond the generalities, heredity and environmen we find no satisfactory formulation of these causes. Our present metho of treating crime has almost reached the maximum of its efficiency. further progress is to be made we must abandon the deterrent princip which lies at the bottom of it. Hopes for a betterment of our presei condition can be founded only upon a more vigorous treatment of juv nile delinquents, and those who threaten to become such, in industri and reformatory schools where habits of industry and morality must b ingrained into them. This would greatly diminish the number of adu criminals and permit a more satisfactory treatment of them. The ser tence should be adapted, not to the crime, but to the criminal, perha by a system of classification. The aim of the plan must be the reform tion of the prisoner, and, where this is impossible, his permanent inca ceration, eventually execution. It is a necessary corollary that the pa ents should contribute to the support of the schools proposed, and tha the prisons should be self-supporting.

Mr. Tallack shows the possibilities of the present system at its bes Mr. Rylands discusses needed changes. He does not pretend to hav solved the question in all its details, but to have indicated the broa general lines upon which progress must take place. The two work supplement each other in an agreeable manner, and each is in its ow way a contribution to our knowledge which will be welcomed.

ROLAND P. FALKNER.

American Constitutional Law. By J. I. CLARK HARE, LL.D Boston, Little, Brown & Co., 1889. — 2 vols., viii, 1400 pp.

This is a book for the practitioner and the advanced student o private law. It is very full and very satisfactory upon that side of th constitution which we may term the civil rights side. The author mani fests a very comprehensive and accurate knowledge of the latest decision of the courts, both of the United States and of the commonwealths, upo all the questions of personal rights and private property falling within th purview of the constitution. He treats them all with vigor and perspicuit and places his reader fully abreast of the existing judicial interpretatio of this side of the constitution.

This is hardly, however, a text-book for beginners in the study o private law. Its arrangement is not sufficiently logical for that. It i topical rather than systematic. It is a collection of lectures instead o a treatment of subjects according to scientific classification. With this however, I do not find any fault. I simply point it out as determinin the class of readers and students to which the book naturally appeals.

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The part of the work which I find to criticise is what we may call the political science side. The author has, indeed, mastered all the judicial decisions upon this side of the subject and has followed them with scrupulous faithfulness. Judicial decision, however, plays but a secondary rôle in political science and public law. Philosophy, history, comparative legislation and governmental custom are the more important sources of these sciences. I do not think the author manifests any greater command of these sources, to say the most, than Kent and Story displayed. I do not think he has developed the political science of the constitution, the theory of our public law, a single stage beyond the point at which they left it. He holds to the same doctrine of natural rights. He confounds the nation as an ethnological concept with the nation as a political concept. He does not clearly distinguish the nation from the national government. He does not accord the Continental Congress, as the revolutionary organization of the American state, its proper place. He attributes sovereignty indiscriminately to the nation, the general government and the commonwealths. These are the old faults of American political science. These are the old obstacles in the way of advance in the development of the theory of our public law. Moving in the circle of such conceptions, and embarrassed by such a nomenclature, it was impossible to do more than reproduce the old confusion in theory, out of which, with equal justification, two conflicting views of our political system have sprung. It is the old story of the jurist endeavoring to do the work of the publicist.

It must be said in justice to the author, however, that he is more consistent in his work than many of the lawyers who have undertaken to deal with the subjects of public law — more consistent, indeed, than many of the judges who have rendered decisions in this field. For example, the Supreme Court of the United States, the body charged with the ultimate defence of private rights, has recognized to the commonwealths the possession of a widely extended, an undefined, absolute power over individual liberty, which it terms the police power. It is strange that, while viewing almost every other part of the constitution from the standpoint of private rights, the court should determine the powers of the commonwealths over personal liberty and private property from the principles of a most despotic public law and an excessively particularistic political science. Our author evidently feels this inconsistency, and manifests some dissent from the exaggerated conception of the police power of the commonwealths now entertained in our jurisprudence. He does not, however, help us to a more exact definition of this power, whereby we may place it under such limitations as will render it less hostile and dangerous to the rights of person and the security of property.

While, therefore, I cannot class this book among the works which the

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German scholars would call "bahnbrechend" or "epochemachend," still I would recommend it to the readers of the QUARTERLY as a most thorough, excellent and timely exposition of that portion of our private law which is guaranteed and protected by the federal constitution.

JOHN W. BURGESS.

Publications of the American Statistical Association. New Series. No. 1: *Statistics of Water Power employed in Manufacturing in the United States.* By GEO. F. SWAIN. Nos. 2 and 3: I. *Park Areas and open Spaces in American and European Cities.* By E. R. L. GOULD. II. *Key to the Publications of the United States Census, 1790–1887, etc.* By EDWARD CLARK LUNT. No. 4: *Life Insurance in the United States.* By WALTER C. WRIGHT. *Miscellany, etc.* Boston, 1888.—8vo, 181 pp.

The American Statistical association was established nearly fifty years ago, and began the publication of papers as early as 1847. For many years, however, it has lain in a quiescent (not to say moribund) condition, and regular publication ceased after the issue of the first volume of the proceedings. During this period it has accumulated a statistical library of considerable value, including the books of its former president, Dr. Edward Jarvis, bequeathed by him on his death in 1884, and a fund of some thousands of dollars. Recently, under the presidency of Francis A. Walker, the society has shown signs of new life. Its library has been removed to a room in the building of the Massachusetts Institute of Technology, where it is being arranged and catalogued by the energetic secretary, Professor Davis R. Dewey. Finally, the association has determined to use its funds for publishing quarterly the papers read at its meetings. The first numbers of the new series form the subject of this notice.

These papers, if not very ambitious, are useful and are carefully done. Professor Swain's paper on water power in the United States presents in a readable form the results gained by the tenth census with further additions of his own. Dr. Gould's paper on city parks is a careful comparison of European and American cities in this respect, and urges the importance of such open-air spaces for the health of urban populations. Mr. Lunt's extended classification of the subjects covered by the different censuses of the United States will be extremely useful to all statisticians or other persons seeking information. Mr. Wright gives valuable statistics of life insurance in this country, with criticism of the "assessment" and "tontine" systems. It is to be hoped that the association will feel encouraged to keep up the publication of these papers.

R. M. S.

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RECORD OF POLITICAL EVENTS.

[October 1, 1888, to May 1, 1889.]

DOMESTIC.

THE PRESIDENTIAL ELECTION. — The election on November 6 resulted in the choice of the Republican candidates, **Benjamin Harrison** and **Levi P. Morton**, for President and Vice-President. The total vote was 11,383,970. The Republican ticket received 5,441,923 votes, and the Democratic 5,536,524. The Democratic plurality on the popular vote was 94,601. The Prohibition vote was 246,406, against 150,369 in 1884; and the Labor vote was 144,608, while in 1884 it was 175,370. The Republicans were successful in every Northern state except Connecticut and New Jersey, and the Republican candidates received 233 electoral votes. The Democratic electoral votes were 168 in number. The contest hinged on the vote of New York, which was carried by the Republicans by 14,373 plurality. The other so-called doubtful states — Indiana, New Jersey and Connecticut — were carried by small pluralities: Indiana, Republican, 2,348; New Jersey, Democratic, 7,149; Connecticut, Democratic, 336. — The Senate in the Fifty-first Congress contains thirty-nine Republicans and thirty-seven Democrats. The Republicans will have a small majority (probably three) in the House of Representatives. — **The Sackville Incident.** A sensation was created by the publication in October of a letter written by Lord Sackville, the British minister at Washington, on September 13, to a stranger in California who had represented himself as a naturalized Englishman, and sought his lordship's advice as to the best course to be pursued in the pending election. Lord Sackville in his reply said: "You are probably aware that any political party which openly favored the mother country at the present moment would lose popularity, and that the party in power is fully aware of this fact. The party, however, is, I believe, still desirous of maintaining friendly relations with Great Britain, and is still desirous of settling all questions with Canada.... All allowances must, therefore, be made for the political situation as regards the Presidential election thus created." The demand was instantly made by some newspapers that the minister should be dismissed. Diplomatic correspondence on the subject followed, and on October 30 the secretary of State, by direction of the President, informed Lord Sackville that, "for causes heretofore made known to Her Majesty's government, his continuance in his present official position in the United States is no longer acceptable to this government, and would consequently be detrimental to the relations between the two countries." In a statement made at the time, Secretary Bayard said that the minister's original offence had been aggravated by interviews with him published immediately after the correspondence was made public. He also said: "The question is thus presented whether it is compatible

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with the dignity, security and independent sovereignty of the United States to permit the representative of a foreign government in this country not only to receive and answer without disapproval, and confirm by his repetition, aspersions upon its political action, but also to interfere in its domestic affairs by advising persons formerly his countrymen as to their political course as citizens of the United States." After remaining vacant for some time, the post of British minister at Washington was filled by the appointment of Sir Julian Pauncefote, who had been for several years permanent under-secretary of State for the British Foreign office.

THE NEW ADMINISTRATION. — President Harrison was inaugurated on March 4. In his inaugural address he said that he looked hopefully to the continuance of the protective system, and the consequent development of manufacturing and mining industries in states hitherto wholly given to agriculture, as a potent influence in the perfect unification of the people. He had "altogether rejected the suggestion of a special executive policy for any section of our country." He recommended that our naturalization laws be so amended as to make the inquiry into the character and good disposition of persons applying for citizenship more careful and searching. He deprecated any attempt by any European government to dominate an interoceanic canal in this hemisphere. "It is quite possible," he said, "to effect the necessary reduction in our revenues without breaking down our protective tariff or seriously injuring any domestic industry." He favored the enlargement of the navy and the encouragement of the establishment of American steamship lines, and declared that our pension laws should give more adequate and discriminating relief to the Union soldiers and sailors and to their widows and orphans. While expressing gratification at the general interest manifested in the reform of the election laws, General Harrison stated that circumstances might make it necessary for the national government to make use of the powers vested in it by the constitution for the control of elections. [See also The Civil Service.] — **The Cabinet** was announced on the following day. It is as follows: Secretary of State, James G. Blaine, of Maine; secretary of the Treasury, William Windom, of Minnesota; secretary of War, Redfield Proctor, of Vermont; secretary of the Navy, Benjamin F. Tracy, of New York; secretary of the Interior, John W. Noble, of Missouri; postmaster-general, John Wanamaker, of Pennsylvania; attorney-general, W. H. H. Miller, of Indiana; secretary of Agriculture, Jeremiah Rusk, of Wisconsin. **The other principal appointments** made and confirmed by the Senate were the following: Foreign ministers — England, Robert T. Lincoln, of Illinois; France, Whitelaw Reid, of New York; Russia, Allen Thorndike Rice, of New York; Austria, Frederick D. Grant, of New York; Italy, Albert G. Porter, of Indiana; Spain, Thomas W. Palmer, of Michigan; Sweden and Norway, William W. Thomas, Jr., of Maine; Switzerland, John D. Washburn, of Massachusetts; Denmark, John A. Enander, of Illinois; the Netherlands, Samuel R. Thayer, of Minnesota; Portugal, George B. Loring, of Massachusetts; Belgium, Edwin H. Terrill, of New Hampshire; Japan, John F. Swift, of California; Brazil, Robert Adams, Jr., of Pennsylvania; Chili, Patrick Egan, of Nebraska; Peru, John Hicks, of Wisconsin; Venezuela, William L. Scruggs, of Georgia; Mexico, Thomas Ryan, of Kansas; Central American states, Lansing B. Mizner, of California; Corea,

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William O. Bradley, of Kentucky; Colombia, John T. Abbott, of New Hampshire. Assistant secretary of State, William F. Wharton, of Massachusetts; examiner of claims in the State department, Walker Blaine; assistant secretaries of the Treasury, George C. Tichenor, of Illinois, and George S. Batcheller, of New York; first assistant postmaster-general, James S. Clarkson, of Iowa; second assistant postmaster-general, Smith A. Whitfield, of Ohio; third assistant postmaster-general, Abraham D. Hazen, of Pennsylvania; assistant secretaries of the Interior, George Chandler, of Kansas, and Cyrus Bussey, of New York; treasurer of the United States, James N. Huston, of Indiana; commissioner of pensions, James Tanner, of New York; commissioner of internal revenue, John W. Mason, of West Virginia; consul-general at London, John C. New, of Indiana; consul-general at Vienna, Julius Goldschmidt, of Wisconsin; commissioners to the conference at Berlin on Samoan matters, John A. Kasson, of Iowa, William Walter Phelps, of New Jersey, and George H. Bates, of Delaware; delegates to the conference with American governments to be held at Washington, John Henderson, of Missouri, Cornelius N. Bliss, of New York, William Pinckney Whyte, of Maryland, Clement Studebaker, of Indiana, T. Jefferson Coolidge, of Massachusetts, William Henry Trescott, of South Carolina, Andrew Carnegie, of Pennsylvania, John R. G. Pitkin, of Louisiana, Morris M. Estee, of California. The nomination of Murat Halstead, of Ohio, as minister to Germany was rejected by the Senate by a vote of 25 to 19. Robert P. Porter, of New York, was appointed superintendent of the census, Edward S. Lacey, of Michigan, controller of the currency, and ex-Governor William M. Stone, of Iowa, assistant commissioner of the land office. — On March 27 President Harrison issued a proclamation throwing open to settlement that portion of the Indian territory known as **Oklahoma**, the rights to which had been ceded by the Creek Indians to the United States. The proclamation took effect on April 22, when there was a large influx of settlers into the new lands.

THE CLEVELAND ADMINISTRATION. — The closing months of President Cleveland's administration were marked by no specially noteworthy features, apart from those already mentioned in connection with the election. The most important appointments were the following: Norman J. Colman to be secretary of Agriculture; John H. Oberly (civil-service commissioner) to be commissioner of Indian affairs; Perry Belmont to be minister to Spain; Walter L. Bragg[1] to be an interstate-commerce commissioner; Carroll D. Wright[1] to be commissioner of labor; Jesse D. Abrahams to be controller of the currency, and Samuel H. Albro to be superintendent of Indian schools. — It was announced in January that the **International Marine Congress**, which it was at first intended to hold in April, had been put off until autumn. It will be held in Washington on October 16. President Cleveland appointed the following to represent the United States at the congress: Rear-Admiral Samuel B. Franklin, Commander William T. Sampson, Sumner W. Kimball, superintendent of the life-saving service, James W. Norcross, Captain John W. Shackford, William W. Goodrich and Clement A. Griscom. The following nations have accepted invitations to take part in the congress: Great

[1] Reappointed.

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Britain, France, Germany, Spain, Italy, Sweden, Norway, the Netherlands, Denmark, Brazil, Chili, Uruguay, Japan, and Hawaii. — A treaty of commerce, amity, and navigation with Japan was signed in February. — **The report of the secretary of the Treasury** showed that the total ordinary revenues of the government for the fiscal year ended June 30, 1888, amounted to $379,266,074, of which $219,091,173 was received from customs duties and $124,296,871 from internal-revenue taxes. The total receipts from all sources exceeded those for the previous year by $7,862,797. The ordinary expenditures for the year were $259,653,958, leaving a surplus of $119,612,116. The decrease in expenditures as compared with the previous year was $8,278,221, notwithstanding an increase of more than $5,000,000 for pensions. The estimated revenues for the year ending June 30, 1889, amounted to $377,000,000; and the estimated ordinary expenditures for the same year were $273,000,000, leaving an estimated surplus of $104,000,000. The estimated receipts for the year ending June 30, 1890, were $377,000,000, and the estimated expenditures, $275,767,488, showing a surplus of $101,232,511. These statements of surplus did not take into account the sum necessary to meet the requirements of the Sinking-Fund act, amounting to more than $47,000,000 annually. The cost of collecting the customs revenues for the year was 2.44 per cent; for 1885 it was 3.77 per cent. The excess of internal-revenue taxes collected during the year over those collected for the previous year was $5,489,174, and the cost of collecting this revenue decreased from 3.4 per cent in 1887 to less than 3.2 per cent for the last year. The tax collected on oleomargarine was $723,948 for the year ending June 30, 1887, and $864,139 for the following year. The purchases of bonds up to November 30 amounted to $94,700,400, on which $17,508,613 was paid in premiums. Secretary Fairchild claimed that the actual loss to the people through this transaction was $55,760,000. The surplus in the Treasury on November 30 was $52,234,610. Under the Compulsory-Coinage act, silver dollars to the amount of $312,570,990 had been coined; $60,970,990 in silver dollars was actually in circulation, and $237,418,346 in silver certificates. The secretary recommended the suspension of the further coinage of silver. — Satisfactory progress in the work of reconstructing the navy was set forth in the **report of the secretary of the Navy**. Of the ships in course of construction, five — the Charleston, Baltimore, Yorktown, Vesuvius and Petrel — were launched during the year and were rapidly approaching completion; and, in addition, the Philadelphia, the San Francisco, the Newark, the Bennington, the Concord and the Herreshoff torpedo-boat were all under contract for delivery during the present year. — The **secretary of War reported** that the army consisted of 2,189 officers and 24,549 enlisted men, and that the expenditures for the fiscal year were $41,165,107, of which sum $9,158,516 was used for public works. — The **report of the postmaster-general** contained many statistics, but few recommendations. The total revenue was $52,695,176; the expenditures were $56,885,403, leaving a deficiency of $4,190,227. The number of post-offices was 57,376 — an increase of 6,124 in three years and of 2,219 in the last year. The number of postmasters appointed during the year was 12,288. — **The report of the secretary of the Interior** set forth that upwards of fifty million acres had been added to the public domain

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rough the forfeiture of railroad land-grants and the restoration of railroad demnity lands, and nearly thirty million acres through the cancelling of ivate entries on account of abandonment, illegality and other causes. The ommissioner of the land office recommended the recovery of 65,000,000 res more. The public revenue from the sale of lands was unusually great, nounting to $13,500,000. — The most interesting feature of the **attorney-eneral's report** was the statement that polygamy within the United States as virtually at an end, six hundred convictions having been secured since larch, 1885. — **The report of the commissioner of internal revenue**, for ie year ending June 30, showed that the total receipts were $125,326,475 — an ıcrease of $5,489,174 over the previous year, and the largest amount collected nce 1883. — An interesting **report on the statistics of marriage and ivorce** was submitted to Congress, in February, by Carroll D. Wright, ommissioner of labor. The total number of divorces granted in the United tates in the twenty years from 1867 to 1886 was 328,716. — The second **report f the interstate-commerce commission** declared that unreasonably low ates were often made for stock-jobbing purposes; that present profits were acrificed in a speculative desire to get unreasonable profits in the future; hat wars commenced for self-interest were carried on under the incentive f passion or pride; that the rate-making power was often committed to sub-rdinates whose training and experience had not fitted them for so delicate task; and it was implied that, in the absence of pooling and of a general onsolidation, the railroads should endeavor to work harmoniously, and that he public must look forward to some general legislation on the subject, which vill become "imperative unless a great improvement in the existing condition of things is voluntarily inaugurated."

THE WORK OF CONGRESS. — The first session of the Fiftieth Congress came to an end on October 20, having lasted 321 days — the longest session in the history of the country. After the last RECORD[1] closed little of importance was done beyond the presentation in the Senate of a substitute for the House Tariff bill. The main provisions of the substitute will be found under Revenue Reform (page 359). During the session there were 15,252 measures introduced into the two houses — 3,644 in the Senate and 11,608 in the House of Representatives. Of the nearly 1,300 nominations sent to the Senate by the President, only three were rejected and only thirty-six were left on the calendar without being acted upon. The second session began on December 3 and expired on March 4. The total number of bills and joint resolutions introduced during the two sessions was 17,059. In the House there were 12,659 bills and 268 joint resolutions proposed, and in the Senate 3,988 bills and 144 resolutions. Of all the bills and resolutions, 1,791 became laws. The President wrote 146 veto messages. — **President Cleveland's Message.** The principal event of interest in connection with the opening of the second session was the presentation of President Cleveland's last message. The message was, in a sense, a continuation of that of 1887, following out the arguments then presented by an attempt to show the effects of high tariff on the legislation and economical condition of the country. The President said that the

[1] See *New Princeton Review* for November, 1888, pp. 392–411.

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principle of equal and exact justice which underlies our institutions should l applied to the relations between the government and the citizens. The should be no discrimination on the part of the government in its treatment citizens. The century just closing had enormously increased the wealth the country, but this increase was not based on the principle of equalit Fortunes realized by manufacturers were no longer solely the result of indivi ual skill and insight ; they were contributed to by the favorable discrimin tion of the government. Instead of limiting the burden of taxation to tl necessary cost of administration, the government exacted unnecessary million which were accumulating in the treasury. The government had entere gratuitously into partnership with a class of citizens, and was taxing for the benefit all other classes. It had become the instrument through whic individual advantages were granted, and communism of capital had become real danger. What was needed was a just revision of the tariff. The nece: sity for this revision was generally conceded, but the question of means ha opened a controversy which must go on until "a plan is perfected, fair an conservative toward existing industries, but which will reduce the cost to th consumers of the necessaries of life, while it provides for our manufacturers th advantage of freer raw materials, and permits no injury to the interests c American labor." The growth of the feeling that private individuals ma look to the government for relief had resulted in the postponement of neede legislation in many directions. Among these was the necessity of relievin the pressure of business on the Supreme Court, of amending and changin the laws relating to public lands, and of a revision of the pension laws upon jus principles. The message reviewed foreign relations, summarized the report of the various departments, and urged legislation with regard to land grants pensions, the consular service, the naturalization laws, *etc.* — **New States** The most important act passed is undoubtedly that providing for the admis sion to the Union of the states of North Dakota, South Dakota, Washingto and Montana. There was a good deal of opposition to the measure in th House, some of the Democratic members insisting that New Mexico shoul be admitted along with the territories named. The bill was finally passed i both branches on February 20, and President Cleveland signalized Washing ton's birthday by affixing his signature to it on that day. The bill provide that on April 15 the governor of each of the territories should order a election of delegates to a constitutional convention, to be held on May 14 These conventions are to provide for the submission of state constitutions t a vote of the people on October 8, after which the states are to be admitte on proclamation by the President. South Dakota is to have two representa tives in Congress; the other states one each. — **Department of Agricul ture.** The bill elevating the department of Agriculture to the rank of a cabinet department, and making its chief officer secretary of Agriculture, was passed by both houses at the beginning of February, and on the 11th the President approved it and nominated as the first secretary of Agriculture the Hon. Norman J. Colman, of Missouri, who had held the office of commissioner of agriculture since 1885. The nomination was confirmed without opposition. — **The Direct-Tax bill** was passed by the House, in an amended form, on December 12, by a vote of 178 to 96, all the negative votes being cast by

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Democrats. After being submitted to a conference committee, it was again passed in both branches, the vote in the House being 168 to 88. On March 2 the President vetoed the bill on the ground of unconstitutionality. He declared that the proposed distribution to the states of the $17,000,000 raised by the direct tax of 1861 was a "sheer bald gratuity" from the general government to the state governments. The Senate promptly passed the bill over the veto by a vote of 45 to 9; in the House no action was taken. — The **Extradition Treaty with Great Britain** was rejected by the Senate on February 1 by a vote of 38 nays to 15 yeas. Ten Democrats and five Republicans voted in favor of ratifying the treaty. — A bill providing for taking the eleventh and subsequent censuses was passed. — An important bill which failed to become a law was that creating the territory of Oklahoma out of the western half of the Indian territory and the public-land strip. The bill passed the House on February 1 by a vote of 148 to 102. The Senate took no action. — The long-delayed Smalls-Elliott contested election case was finally decided on February 13, in favor of Elliott (Democrat). The resolution declaring that Smalls was elected in the seventh district of South Carolina was defeated by a vote of 126 to 143. — The House committee (Mr. Ford chairman) which investigated the subject of immigration made a report on January 19. It presented a bill for the regulation of immigration, but no action was taken. — A number of important bills **failed to become laws.** Among these may be mentioned the Blair Educational bill, the International-Copyright bill, a River-and-Harbor bill appropriating nearly $12,000,000, a bill (introduced by Senator Sherman) providing for federal supervision over congressional elections, and the Dependent-Pension bill. An amendment to the Consular-and-Diplomatic-Appropriation bill, changing the title of the diplomatic representatives of the United States at London, Paris, Berlin and St. Petersburg from ministers to ambassadors, was adopted by the Senate on January 29, but the action was afterwards rescinded. — A pension of $2,500 per annum was provided for the widow of General Sheridan. — A joint resolution aimed to promote commercial union with Canada was passed by the House on March 1. It made provision for the appointment by the President of commissioners to meet representatives of the Dominion government for the purpose of drafting plans for the assimilation of the duties and internal-revenue taxes of the two countries and an equitable division of receipts. This action was to be taken in case Canada should desire to establish commercial union with this country.

REVENUE REFORM. — A substitute for the Tariff bill passed by the House of Representatives was reported to the Senate by the committee on finance on October 3. It was practically a new bill. It proposed to reduce the duty on sugar about one-half; it repealed the tax on manufactured tobacco and snuff and reduced the tax on cigars and cigarettes; it put alcohol used in the arts on the free list; it increased the duties on some of the finer grades of wool. Forty-two articles were added to the free list, including jute, jute butts, bristles and feathers. *Ad-valorem* duties were substituted for specific duties as far as possible. The estimated reduction in the revenue under the operations of this bill was about $74,000,000; including $28,000,000 on sugar, $24,000,000 on tobacco, $7,000,000 on alcohol, $6,500,000 by additions to the

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free list and $8,000,000 by reduction of customs duties. The most importar amendment made by the Senate was one providing for a bounty on sugar The bounty allowed was one cent per pound on sugar produced from beet sorghum or sugar-cane grown in the United States. This was violently op posed by the Democratic senators; it was adopted on January 18 by th strict party vote of 27 to 23. The substitute itself was passed on January 2 by the votes of 32 Republican senators against 30 Democrats. On being re ported to the House, it was referred to the committee on ways and means The committee applied to the Treasury department for an estimate of th relative effect upon the revenue of the original bill and the substitute. Th computation on this point was reported as follows on February 12: Reduc tion by House bill — customs, $50,350,345; internal revenue, $17,610,234 total, $67,960,579; by Senate substitute — customs, $13,976,887; interna revenue, $33,905,780; total, $47,882,667. Rather significant action was taker by the House on January 14, when a revenue bill introduced by Mr. Cowles of North Carolina, was referred, not to the committee on ways and means but to the committee on appropriations, of which Mr. Randall was chairman The vote on the question of reference was 129 to 91, more than twenty Demo crats being recorded in the affirmative. The Cowles bill proposed to abolish all taxes on tobacco, and thus to reduce the revenue about $30,000,000. On February 15 the committee on ways and means presented a report on the Senate substitute for the House bill (commonly known as the Mills bill) The report reviewed the entire subject of revenue reform. It was accom panied with a resolution declaring that the Senate, in substituting under the form of an amendment to the Mills bill another and different bill containing a general revision of the laws relating to the imposition of customs duties and internal taxes, had violated section 7, article i, of the constitution, which gives to the House the sole power to originate bills of this sort. Subsequently there were reported from the ways and means committee two modifications of the Mills bill. The estimated reduction by one of them was $72,000,000, and by the other $41,730,000. Two reports were made at the same time on the Cowles bill by the committee on appropriations. The last action taken on the subject by the House was on February 22, when there was a fair and square contest between Chairman Mills and Chairman Randall. Mr. Mills moved the consideration of his resolution rebuking the Senate for doing an unconstitutional thing in preparing a substitute for the House bill. Mr. Randall objected, desiring to secure precedence for the Cowles bill. Mr. Mills's motion was defeated, the vote being 88 to 143; twenty-nine Democrats were recorded in the negative. By means of filibustering and obstruction, the Cowles bill was prevented from being brought before the House, and the session expired without anything further being done. — President Cleveland wrote to the Massachusetts tariff-reform league on December 24, expressing cordial sympathy with the objects of that society. "This reform appears to me," he said, "as far-reaching in its purposes as the destiny of our country, and as broad in its beneficence as the welfare of our entire people." In declining an invitation to attend the session of the national tariff-reform league, held at Chicago on February 19, Mr. Cleveland wrote: "The declared purposes of your league will not be attained until all those interested

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the economic question which is now pressed upon their attention are freed om all sophistries and clouding fallacies, and until the subject of tariff re- m is presented to them as a topic involving the relief of the plain people the land in their homes from useless and unjust expense."

THE CIVIL SERVICE. — Great interest was felt by every friend of il-service reform in President Harrison's first utterances on the subject. hat he said in his inaugural address was not considered altogether satis- ctory. He declared that "honorable party service will certainly not be teemed by me a disqualification for public office. But it will in no case be owed to serve as a shield of official negligence, incompetency or delin- ency. It is entirely creditable to seek public office by proper methods and th proper motives, and all applicants will be treated with consideration. it I shall need, and the heads of departments will need, time for inquiry d deliberation. Persistent importunity will not, therefore, be the best pport of an application for office. Heads of departments, bureaus and all her public officers having any duty connected therewith, will be expected enforce the Civil-Service law fully and without evasion. Beyond this vious duty, I hope to do something more to advance the reform of the civil rvice. The ideal, or even my own ideal, I shall probably not attain. Ret- spect will be a safer basis of judgment than promises. We shall not, how- er, I am sure, be able to put our civil service upon a non-partisan basis ntil we have secured an incumbency that fair-minded men of the opposition ll approve for impartiality and integrity. As the number of such in the vil list is increased, removals from office will diminish." — The committee Senator Hale chairman) appointed by the Senate to investigate the civil rvice under the Cleveland administration presented a majority report on ctober 10. The Republican members, in summing up the results of their quiries, declared that partisan changes had been made in the federal offices a wholesale way, under no pretence that the good of the public service de- anded such changes; that federal officials throughout the country, contrary the directions of the President as found in his letter of July 14, 1886, had ely and openly participated in political conventions and primary-election ovements, using their official influence; that the system of levying tolls and sessments upon federal office-holders for political purposes had continued ithout interruption since the administration came into place. It was also serted that the principles laid down by the President had been grossly vio- ted by Mr. Cleveland and members of his cabinet in "their alleged and ncontradicted subscriptions of large sums to the Democratic national com- ittee." The report of the minority of the committee was presented on ctober 20. It criticised the course of the majority in limiting the inquiry the Cleveland administration, and claimed that all the evils and abuses mplained of were an inheritance from previous administrations. "Intelli- nt men will realize and honest men will admit that to-day, after nearly four ars of Democratic rule, there are ten Republicans holding office and draw- g pay from the federal treasury where there was one Democrat in the service the 4th of March, 1885. Under a Democratic administration it is not to wondered at, if, conditions being equal, preference has been given to emocratic applicants for office." — Nothing was said on the subject of civil-

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service reform in President Cleveland's last message; but on December 9 he directed the civil-service commission to include in the classified service the employees in the railway-mail service. This step had been contemplated for some time, and there was considerable adverse criticism of the President because it was taken so late in his administration. Subsequently rules governing changes in the railway-mail service were prepared by the commission and approved by the President. One significant feature of the rules was that the reason for every removal should be reported to the commission. The rules were ordered by President Harrison to go into effect on May 1. — Some surprise was caused when it was made known on February 9 that Civil-Service Commissioner Alfred P. Edgerton had been removed by the President. To the vacancy thus created Hugh S. Thompson, assistant secretary of the Treasury, was nominated. The nomination was not confirmed. — There was a lively debate in the House of Representatives on December 17 over a motion to strike from an appropriation bill the items for the salaries of the civil-service commissioners. The vote on the motion was 25 yeas (all Democrats) to 138 nays. — In February the general subject of the reform was debated in the Senate on a motion to provide the commission with two more clerks than had been allowed by the committee on appropriations. In the course of the debate, Senator Hawley made an important statement in regard to the scope of the reform. He said that when the Civil-Service law went into operation, in 1883, there were subject to examination in the executive departments at Washington 5,652 persons; in the customs districts, 2,573; and in the post-offices, 5,699 — in all not quite 14,000. The system had been extended so that there were in the departments nearly 9,000; in the customs districts, 2,298; in the post-offices, about 11,000; and in the railway-mail service, 5,320 — in all 27,618, almost exactly doubling the number of persons subject to examination. — A gathering of civil-service reformers took place in Baltimore on February 22. The resolutions which were adopted pledged to the President-elect hearty co-operation and support in his efforts to promote civil-service reform; declared that the true purpose of the law forbade the removal of officers in the classified service, under any pretext, for political or partisan reasons; asserted that in the unclassified service appointments and removals should be made solely with a view to promote the welfare of the whole people; favored the repeal of all laws which require the appointment of non-political officers for fixed terms; urged the passage of a law requiring reasons for removals to be set forth; recommended that the Senate should consider all nominations in open session; and deprecated attempts by members of the legislative departments to control or influence the President's discretion in the matter of appointments. — Some stir was caused in October by the publication of an order issued by General S. V. Benet, chief of ordnance, on January 4, 1886, to the effect that in the arsenals and armories, "in employing or discharging employees of all grades, other things being equal and qualifications satisfactory, Democrats will be favored; the object being to divide the force in the different grades gradually between Democrats and Republicans. This rule will apply to women and children as well as to men and will be strictly enforced." This order was pronounced by the executive committee of the New York civil-service reform association "a violation

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the principle which should govern appointments in the public service." e matter was debated in the Senate, and full information regarding the net order was demanded from the secretary of War. — The report of the w York state civil-service commission, made in March, declared that during : year there had been steady and sure progress in the reform of the civil vice. The suggestion was offered that penalties for violations of the civil-vice statutes and regulations should be provided by the legislature.

LABOR TROUBLES. — The number of strikes in the seven months under 'iew has been comparatively small. They have been mainly confined to eet-car employees. Early in October some 2,500 men quit work on car es in Chicago; the trouble lasted about ten days. It was settled by a ght increase in wages, but not so much as had been demanded. There was general strike of street-car men in New York and on a number of lines in ooklyn at the end of January. It was not based on a question of wages so ıch as on the demand of the men that their organization should be recog-ːed by the officers of the companies. Serious disturbances were threatened, t the police were able to keep the disorderly crowds under control. One ·iker was shot and killed. The difficulty was settled by the employees ·lding and the companies taking them back. — The scheme to amalgamate labor organizations connected with the railroad service of the country was nsummated at Richmond, Virginia, in October. The new organization was nominated the "National Federation of Railroad Employees in the Trans-›rtation Department." It embraces conductors, engineers, firemen, switch-en and brakemen. — **Knights of Labor.** The eleventh annual general sembly of the Knights of Labor was held in Indianapolis, beginning ovember 13. The startling statement was made by the treasurer that the embership had decreased about 300,000 in the last fiscal year, and that the ılance on hand on November 1 was only $46, while there were bills unpaid at at date amounting to $3,687. He recommended a reduction of $25,000 in e expenses of the order by the abolition of mileage paid to representatives, e consolidation of the offices of general secretary and general treasurer, and e reduction of the general executive board to not more than five members. r. Powderly at first refused to consent to a re-election as general master orkman, but finally yielded on condition that he should have a controlling ›ice in the selection of the general executive board. He was elected by 114 ›tes, only 27 being cast for other candidates. He then nominated eight ındidates for the general executive board, of whom the assembly selected ur; these with himself make up the board. Morris L. Wheat was elected ːneral worthy foreman, and John W. Hayes general secretary-treasurer. Mr. owderly stated to the assembly that, though his salary had been left at ;,000, he would only accept $3,000. Cardinal Simeoni, prefect of the Propa-ında, sent to Cardinal Gibbons, in November, a communication stating that, so far as at present appears, the association of the Knights of Labor can for ıe moment be tolerated." — **Federation of Labor.** The annual conven-on of the American Federation of Labor opened at St. Louis on December 1. In his opening address President Gompers condemned the men who ere continually decrying strikes, and advocated shorter hours of labor. He rged the formation of eight-hour leagues in every city and town in the

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country, and said that trades unions and labor unions should be represente in them. He denounced the conduct of the Knights of Labor, and was partic ularly severe on Mr. Powderly for his conduct in the matter of bringin about harmony of action between the federation and the knights. The federa tion elected these officers: President, Samuel Gompers; vice-presidents Daniel McLaughlin and William Martin; secretary, P. J. McGuire; treasurer Henry Emrich; trustees, Hugo Miller, August Delabar and Josiah P. Dyer — At the end of December and the beginning of January conferences were hel to secure a settlement of the strike on the Chicago, Burlington and Quincy rail road, which took place in February, 1888. The company finally consente not to follow up, blacklist or in any manner attempt to proscribe those wh were concerned in the strike, but in all proper ways to assist them in securin employment; and when it became necessary to go outside of its own servic for men in any capacity, it agreed not to exclude those who engaged in th strike, provided they had not been guilty of violence or other improper con duct. The annual report of the company showed a deficit of $4,331,425 which was chiefly attributed to the strike. — The supreme court of Pennsyl vania decided on November 5 that the Mechanics'-Lien law was unconstitu tional. — On March 11 some 6,000 weavers in the mills at Fall River, Massa chusetts, went on strike for an advance of wages. They soon returned t work without accomplishing their object.

THE INDIANS. — President Cleveland, in his message, said that th condition of the Indians continued to improve and that the substitution o enlightenment and education for barbarism was making favorable progress He urged the extension of facilities of education to all teachable Indian youth of both sexes. The number of these was estimated at 40,000, while the tota enrolment in the schools was only 15,212. In regard to the Apache prisoners he said that he was not at all in sympathy with the benevolent, but injudicious persons who constantly insisted that they should be returned to their reserva tion. He was convinced that they should be kept in restraint far from thei former haunts. There were 382 of them, in all, at Mount Vernon barracks Alabama. — The report of the secretary of the Interior stated that the **total number of Indians**, according to the incomplete census taken, was 246,005 The entire territory reserved for them was 112,413,440 acres — equivalent t an average of 456 acres for each Indian. The expense of maintaining the 21 Indian schools for the year was $1,203,748. — The annual report of John H Oberly, commissioner of Indian affairs, was not made until about the middle of January. He favored the extension of the provisions of the Civil-Service law to the Indian service. — A delegation of Sioux chiefs and sub-chiefs visited Washington in October to present to the President their objections t the law providing for the relinquishment of 11,000,000 acres of their reserva tion. The President and the secretary of the Interior were willing to recom mend that $1 per acre be paid for this land, but the chiefs, by a large majority, insisted on having $1.25. — On April 26 the Rev. Dr. Daniel Dorchester, o Boston, was appointed superintendent of Indian schools,

COURT DECISIONS AND TRIALS. — Melville W. Fuller took the oath of office as chief justice of the United States on October 8. — The supreme court of Utah on October 8 entered a final decree declaring the dis-

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olution of the Mormon church as a corporation, and decreeing that all its roperty should become escheated to the government for school purposes in Utah. — It was decided by the United States circuit court at San Francisco on October 15 that the Chinese Exclusion act was constitutional, and that it pplied to Chinese then in port on shipboard, to those on the way from China nd to those still in China. — The disputed clauses in the will of Samuel J. ilden, providing for the establishment of a free library in the city of New ork, were held to be valid by a decision of the New York supreme court on October 22. — The United States Supreme Court on October 22 sustained the onstitutionality of the Prohibition law of Iowa. — On the same day a decision vas rendered upholding the constitutionality of the law of Alabama which orbids railroads to employ persons affected with color-blindness and defective ision. — On October 29 the same court declared unconstitutional all state aws imposing a license tax on commercial travellers not residents of the tate imposing the tax. — United States Circuit Judge Sawyer decided at San rancisco, on November 9, that Chinamen born in the United States are itizens. — In the case of the United States against the American Bell Tele- hone Company, a decision in favor of the government was rendered by the Jnited States Supreme Court on November 12. The decision swept aside the leas by which the telephone company sought to prevent the trial of the suit rought by the government for a cancellation of the Bell patents. The suit vas remanded to the circuit court of Massachusetts for a trial on its merits. — n the Fiske will case, the New York court of appeals decided on November 27 hat the bequest of $1,500,000 to Cornell University was invalid, on the round that the charter of the University forbade it to hold property above he value of $3,000,000, and that at Mrs. Fiske's death this aggregate had een exceeded. — The Iowa supreme court, in a case decided on December 21, eld that any liquor containing alcohol, no matter how diluted, is intoxicating. Literally followed, this would prevent the sale of vinegar in that state. — In December the Chicago anarchists applied to the courts for an injunction estraining the police from interfering with their meetings. The matter at- racted considerable attention. The injunction was not granted, but the court eld that the police had no right to prevent the holding of a meeting on the round of a suspicion that incendiary utterances might be made. — An im- ortant decision was rendered by Judge Barrett, of the New York supreme ourt, on January 9, to the effect that the sugar trust was unlawful and in estraint of trade. The case came up on the application of the attorney- general of the state for the forfeiture of the charter of the North-River sugar- efining company, a member of the trust. The court held that the application must be granted. — A decision rendered by the United States Supreme Court on January 21 in reference to American and foreign patents was considered of great importance. The point involved was the effect which a foreign patent has on an American patent subsequently granted to the same inventor. It was eld that the American patent should extend for fifteen years, independently of the duration of the foreign patent. — **New York Bribery Cases.** A new trial was granted by the court of appeals on October 2 to ex-Alderman Arthur J. McQuade, who was sent to prison for bribery for a term of seven years and ordered to pay a fine of $5,000. On February 11 the venue of the trial of

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McQuade was changed to Saratoga county, it being alleged that a jury could not be obtained in New York city. On November 12 the Supreme Court of the United States refused to interfere in the case of ex-Alderman Jaehne, convicted of bribery. Jaehne's counsel claimed that the sentence was wrongly imposed on the ground that the sections of the law under which the sentence was imposed were *ex post facto*. In the second trial of ex-Alderman Cleary a change of venue to Broome county was granted on January 30. The second trial of Thomas B. Kerr, accused of bribing the aldermen, took place in March and resulted in his acquittal.

TEMPERANCE REFORM. — The new Iowa Liquor law went fully into effect on October 1. Under it, liquors can be sold only by registered pharmacists, and the restrictions imposed on them are very severe. — The legislature of Rhode Island voted in March to re-submit to popular vote the prohibitory amendment to the constitution. This became an important issue in the state election in April. — The Indiana legislature took a step in the direction of high license by passing a bill repealing the law which forbade a higher license fee than $100, and substituting a $250 standard. — In New Jersey an act was passed by the legislature repealing the county-option portion of the law passed in 1888. — The question of temperance legislation attracted a good deal of attention in the New York legislature. A commission constituted by the legislature of the previous year prepared a careful revision of the excise laws, and reported a general substitute for all then existing measures. It fixed the fee for a full saloon license at from $300 to $500 in cities and from $100 to $200 in villages; and the fee for a saloon license for the sale of beer, ales, and wines was fixed at from $60 to $150 in cities and from $40 to $100 in villages. The report was the result of a compromise between the members of the commission, who represented various shades of opinion on the subject of liquor legislation, and was not regarded as satisfactory by most of the interests concerned. With the license fees slightly increased the bill was passed by the Assembly on April 3 by a vote of 69 to 53. The Senate passed the bill April 25, by a vote of 17 to 14. Its veto by the governor was expected on May 1. — Constitutional amendments providing for prohibition were rejected by West Virginia in November, by New Hampshire in March and by Massachusetts in April. The Connecticut legislature voted in April to submit a prohibitory amendment to the people.

STATE LEGISLATION. — The counting in November of the votes cast in April, 1888, on the constitutional amendment in Rhode Island showed that it had been adopted. The amendment enfranchises citizens of foreign birth and abolishes the property qualification for voting for general officers. — The question of ballot reform has been before a considerable number of the legislatures. In Indiana a law was enacted which is pronounced the most complete yet adopted in this country. It divides the state into election precincts of 200 voters each, the number in no case to exceed 250. In other respects the principles of the Australian system are applied. It is provided that independent nominations may be made by means of petitions or nomination papers, the signatures of 500 qualified electors being necessary for the nomination to a state office, 200 for member of Congress, 25 for member of the legislature or officer of a county, and 20 for officer of a township, ward, or

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ıer division less than a county. A ballot-reform bill was rejected by the ıine legislature. In Rhode Island, Wisconsin, Tennessee and Montana ls based on the Australian system became laws. In New York a bill similar that passed and vetoed the previous year was again passed by Republican tes, but its approval by Governor Hill is very doubtful. —Several amend-ents to the constitution of New Hampshire were adopted in March. The ɔst important of these provided for the meeting of the legislature in January stead of June; this will prevent the interregnum which occurs in the United ates senatorship at the expiration of every term. Another amendment ed a salary for members of the legislature in lieu of a *per-diem* compensa-ɔn. — A law passed by the Indiana legislature permits any person, when an tempt is made in any way to influence his vote, to institute a suit for dam-es; upon proof of the charges he may recover $500.

STATE ELECTIONS. — Elections were held in most of the states on ɔvember 6. — In New York Governor Hill (Dem.) was re-elected by a plu-lity of 19,171. — In Massachusetts Governor Ames (Rep.) was re-elected by er 28,000 plurality. — In Connecticut Morris, the Democratic candidate for ɔvernor, received a plurality of 1,415, but not having a majority of the votes st, the election was thrown into the legislature, which chose the Republican ndidate, Morgan J. Bulkeley. — A peculiar condition of things arose in est Virginia. General Nathan Goff, the Republican candidate for governor, ceived a small majority, but the legislature refused to perform its duty of opening and publishing the returns." On March 1 General Goff qualified as ɔvernor and expressed a purpose to obtain his rights. At the same time, R. . Carr, the president of the Senate, took the oath of office as governor, on ıe ground that a vacancy existed and he was entitled to fill it. Meanwhile overnor Wilson held on to his office, claiming that his successor had not ɛen chosen. General Goff appealed to the courts, which refused to interfere, ıd held that the legislature was beyond their control. The courts subse-ıently decided that Carr had no claim to the office, thus leaving Wilson in ıdisputed possession. — In Delaware a Republican legislature was chosen, hich elected the first Republican senator who ever represented that state. — he election in Rhode Island in April resulted in the choice of Republican ate officers, with the exception of the attorney-general.

THE WASHINGTON CENTENNIAL. — The centenary of the in-ıguration of Washington as President of the United States was celebrated ı New York on April 29 and 30 and May 1. There were large and successful ıarine, military and industrial parades, a brilliant ball and a centennial ban-ıet. The literary exercises took place on April 30 in Wall street, close to ıe spot where the first inauguration ceremonies were held. They consisted f a prayer by the Rev. Dr. R. S. Storrs, a poem written by John G. Whittier, n oration by the Hon. Chauncey M. Depew and a brief address by President larrison. The centennial festivities were witnessed by the greatest number f persons ever assembled in New York city.

OBITUARY. — Richard A. Elmer, formerly second assistant postmaster-eneral, October 2; the Right Rev. E. R. Welles, bishop of the Protestant piscopal diocese of Milwaukee, October 16; General James Craig, once a ıember of Congress, October 20; William T. Hamilton, ex-senator of the

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United States and ex-governor of Maryland, October 26; Rear-Admiral Charles H. Baldwin, November 17; Rear-Admiral Edward Simpson, December 1; Major-General Romeyn B. Ayres, December 4; Rear-Admiral William E. Le Roy, December 10; Rear-Admiral Chandler, February 10; Francis Wharton, solicitor of the State department and a well-known authority on international law, February 21; John W. Johnston, ex-senator of the United States, February 27; John Ericsson, the well-known inventor and the designer of the famous *Monitor*, March 8; Admiral John Lee Davis, March 12; John Archibald Campbell, ex-justice of the United States Supreme Court, March 13; Stanley Matthews, associate justice of the Supreme Court of the United States, March 22; Rear-Admiral Thomas H. Patterson, April 9; John P. Usher, ex-secretary of the Interior, April 13; Rear-Admiral William Rogers Taylor, April 14; Henry G. Pearson, postmaster of New York city, April 20; F. A. P. Barnard, LL.D., president of Columbia college, April 27; Wm. H. Barnum, ex-senator of the United States, April 30.

FOREIGN.

GREAT BRITAIN.—The Parnell Commission. The commission appointed to investigate the charges made by the London *Times* that Mr. Parnell and other Irish members of Parliament had been implicated in crimes committed in Ireland, began its hearings on October 23. It was composed of Sir James Hannen and Justices Day and Smith. The opening address of Sir Richard Webster, the attorney-general, who acted as counsel for the *Times*, occupied five days. A great deal of time was consumed in presenting testimony in regard to outrages in Ireland, with no attempt to connect Mr. Parnell or any of his associates with these affairs. Some of the Irish newspapers criticised the commission severely, and on November 2 Edward Harrington, M.P., was fined £500 on account of an abusive article which appeared in his paper, the Kerry *Sentinel*. Subsequently William O'Brien was taken to task for speaking of "the forgeries commission" in *United Ireland*, but he escaped with a warning. On February 5 the attorney-general announced that he had completed the Irish part of the case and would take up the American part. The testimony on this point was mainly given by one Major Le Caron, who had been employed by the British government to act as a spy and ascertain the secrets of the Fenian and other Irish societies in the United States. As against Mr. Parnell and other members of Parliament his testimony was of no value. The heart of the case was reached about the middle of February, when the subject of the alleged Parnell letters was taken up. It appeared from the testimony offered by representatives of the *Times* that the letters were obtained from Richard Pigott. Pigott was put upon the stand. Under cross-examination he admitted that he had been a blackmailer for twenty years, and it was made clear that he was an expert and unscrupulous scoundrel. It was expected that a confession would be forced from him to the effect that he had forged the letters, but when the commission met on February 26, it was announced that he had fled, leaving behind him a full confession of his crime. Nothing was definitely known as to his movements for two days, but on February 28 word came that he had been arrested in Madrid and had committed suicide. The attorney-general

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ithdrew the letters from the case and the *Times* expressed "regret, most lly and sincerely, at having been induced to publish the letters as Mr. Parell's or to use them in evidence against him. This expression of regret," it lded, "includes also the letters falsely attributed to Mr. Egan, Mr. Davitt id Mr. O'Kelly." It affirmed that it "firmly believed the letters were enuine until the disclosures made by Pigott on cross-examination." It was elieved by many that the withdrawal of the letters would be followed by a scontinuance of the investigation; and the opposition press even called for ie resignation of the cabinet. Lord Salisbury, however, in a speech on arch 19, declared that the government had no interest in the letters, and iat the commission had been appointed to consider far wider and more nportant charges. The commission continued its sessions, but nothing of nportance was elicited. On March 13 Attorney-General Webster announced iat the case for the *Times* was finished, and the commission adjourned until pril 2. At that time the case for the Parnellites was opened by Sir Charles ussell. He made a masterly address, which was not finished until April 12, hen the commission adjourned until the 30th. Mr. Parnell's testimony was egun on that day. He emphatically disavowed any connection or sympathy ith violent or illegal methods. The question of the attorney-general's conict came up in the House of Commons on March 22, when a motion to reduce s salary as a mark of want of confidence was rejected — 286 to 206. Mr. Parell's suit against the *Times* for libel, brought in the Scotch courts, was disissed on February 26. His suit in the English courts for £100,000 damages ill, it is said, be pushed to trial in the autumn.— **Parliament** met on Novemer 6 and continued in session until December 24, when it was prorogued. he most important action at the autumn session was the passage of a bill tending the operations of the Ashbourne Land-Purchase act, by the exnditure of another £5,000,000. Under this act, Irish tenant farmers ay acquire title to their holdings by purchase, the money being loaned the government under certain conditions. Mr. Gladstone moved as an nendment to the government's proposal that the Land law of 1887 be tended so as to reduce or cancel arrears of rent, but the motion was jected — 330 to 246. The bill was passed by a vote of 202 to 141. — uring the debate on November 26 David Sheehy, Nationalist member r North Galway, stated that he had been summoned into the lobby by a sitor, whereupon a summons under the Coercion act had been served on m. He denounced this as an audacious breach of privilege. Mr. Balfour, ief secretary for Ireland, deplored the incident and said that he entirely sapproved of such acts. A committee was appointed to make an inquiry. ie committee reported that the Irish executive had taken no precaution to sue proper instructions to the Irish police for the proper observance of the spect of the House of Commons. — On December 4 Lord Randolph Churchmade an attack on the government in the matter of sending troops to iakin. He said that the number of British soldiers was totally inadequate. ie secretary for War defended the government's course, and Lord Randolph's otion was thrown out by a vote of 231 to 189. Subsequently, however, the rce at Suakin was increased to 6,500 men. — When Parliament reassembled February 21, **the speech from the throne** set forth that early attention

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would be asked to measures for the development of the material resources Ireland and for amending the constitution of the various tribunals havi jurisdiction over real property in Ireland. "The statutes recently passed f the restoration of order and confidence in Ireland," it was stated, "ha already been attended with salutary results." Mr. Morley at once gave noti that he would introduce an amendment to the address in reply to the Queer speech, condemning the administration of the law in Ireland as harsh, unju and oppressive, and asking that measures be adopted to content the Irish a re-establish a real union of Great Britain and Ireland. A prolonged deba ensued. On March 1 Mr. Morley's motion was rejected — 339 to 260. — motion to reduce Mr. Balfour's salary by £500 was rejected on March 21 l a vote of 222 to 211. — Lord George Hamilton, first lord of the Treasu stated in the House of Commons on March 7 that the government propos to build eight first-class men of war of 14,000 tons each and two of 9,000 tor nine first-class cruisers and twenty-nine smaller cruisers. The total tonna of these vessels would be 318,000 and the cost £21,500,000. He asked f an appropriation of £10,000,000 from the consolidated fund and propos that the remainder should be provided for in the ordinary estimates. H promised that the Admiralty's programme should be executed in four yea and a half. — In the House of Commons on March 19 Sir James Fergusso parliamentary secretary for the Foreign office, announced that serious que tions had arisen between England and the Sultan of Morocco and that portion of the Channel squadron had been ordered to Tangier. — A resol tion was adopted by the House on March 26 declaring that the governme should ascertain whether the powers were willing to meet in conference discuss the question of the suppression of the slave trade. — The budget w introduced by Mr. Goschen, Chancellor of the Exchequer, on April 15. Tl revenue of the year exceeded the estimate of the previous budget by £1,645 000; the expenditures were £941,000 less than the estimate; leaving a su plus of £2,586,000. The estimate for the current year shows: revenu £85,050,000; expenditures, £86,967,000. — A good deal of excitement w caused in London during the autumn by the commission of a number mysterious and peculiarly fiendish murders in the Whitechapel district, a severe criticisms were passed upon the police for their inability to discov the murderer. As a result General Sir Charles Warren, chief of the metr politan police, resigned, and it was thought at one time that the Home se retary would be compelled to resign. — A great demonstration in honor Mr. Gladstone was made in Birmingham on the occasion of his visit to th city on November 5. He made several speeches, in which he said that tl Irish question was really the English, Scotch and Welsh question, and un the question was settled the country would know neither solid peace n effectual progress. — Of the 990 non-Episcopal Protestant ministers in Irelan 864 signed an anti-Home-rule address, which was presented to Lord Salisbu and Lord Hartington on November 14. Of the minority who declined sign, it was stated that only eight were Home-rulers. — Lord Salisbury, spea ing at Edinburgh at the end of November, said that he believed that Scotlar was beginning to realize the dangers of Gladstonianism and becoming Unio ist. He insisted that there was growing in Mr. Gladstone's mind a distinct id

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f the entire separation of Ireland. — **Parliamentary elections.** The most gnificant of the by-elections that have been held was that in the Kennington ivision of Lambeth (London) on March 15. It resulted in a victory for the ·ladstonian candidate by a majority of 631, while at the previous election the onservatives won by 430 votes. Other elections which showed Gladstonian ains were those in Holborn, Maidstone, Dewsbury, Govan, Perthshire and orton, while there were conservative gains in Colchester, Enfield and Stock-)n. — It was given out on March 29 that the cabinet had decided to propose : the next session of Parliament a land-purchase scheme for Ireland, and ould also introduce in 1891 an Irish local-government bill, providing for ctensive changes in the management of internal affairs in Ireland. — England ·st one of its greatest orators and men, and the United States a true friend, y the death of **John Bright,** which occurred on March 27. He had been in eble health for some time. John Albert Bright was elected to succeed his ther as member of Parliament for the central division of Birmingham. — aurence Oliphant, the well-known writer, died on December 23.

AFFAIRS IN IRELAND. — Since the closing of the last RECORD there as been no change in the government's policy toward Ireland. A considera-e number of members of Parliament, priests, and others have been arrested ıder the provisions of the Crimes act and sentenced for longer or shorter rms of imprisonment. As in the previous year, the case of William O'Brien, .P., created the greatest stir. During his trial he escaped from the court om. Nevertheless the trial proceeded, and on January 25 he was sentenced r four months. He eluded the police for several days, but was arrested at anchester on January 29. On being taken back to Ireland he was thrown to Clonmel jail, where he refused to put on the prison garb. His clothing as forcibly removed and his beard shaved off. He made a desperate resis-nce and was thoroughly exhausted. Mr. Balfour was appealed to in behalf O'Brien, and subsequently the prison doctor guaranteed that no further tempt would be made to force the prisoner to don the prison garb. A mass eeting was held at Phœnix park, Dublin, February 3, to denounce the treat-ent to which O'Brien was subjected; it was announced that a memorial had en signed by four archbishops and a majority of the bishops, calling upon e government to discontinue proceedings that endangered the prisoner's life. Brien's clothes were returned to him on February 5, when his condition as such that he had to be removed to the infirmary connected with the jail. ı February 10 a great gathering took place in Hyde park, London, to nounce the government's coercive measures toward Ireland, and to express mpathy with O'Brien. In the meantime several summons had been served O'Brien for alleged illegal speeches. On February 11 he was removed the jail at Tralee. On the 18th he was arraigned under the last summons ued against him and sentenced for six months. A few days later he was ten to Galway jail. It was announced on March 13 that the government d decided to abandon the prosecution of O'Brien for conspiracy. — While ing to arrest Father McFadden at Gweedore on February 3, Police Inspec-· Martin was killed. The priest claimed that he used all his influence with e people to induce them to desist from rioting. Many arrests were made connection with the affair. — Another rescript was sent by the Pope to the

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Irish bishops in November. It ordered them to execute actively the form rescript, which condemned boycotting and the plan of campaign.

BRITISH COLONIES. — The agitation in **Canada** regarding annexati to the United States, or commercial union with it, has been industriously carri on, but without definite results. The sentiment in favor of annexation appea to be increasing. In an address to French citizens on November 13 the go ernor-general, Lord Stanley, spoke squarely in opposition to this sentimer referring to the schemes for annexation as intrigues. In the House of Co mons, on February 26, Mr. Laurier, the leader of the opposition, support with a strong speech a motion to enter into negotiations with the Unit States and that the *modus vivendi* in reference to the fisheries be continue In his reply, Sir John MacDonald said that the Dominion heartily favor enlarged trade relations with the American people. Several days later t motion was defeated — yeas 65, nays 108. On March 5 Sir Richard Ca wright offered a resolution stating that it was expedient that steps should taken to ascertain on what terms and conditions arrangements could effected with the United States for securing full and unrestricted reciproci This was defeated by the supporters of the government on March 19. — Parl ment was opened on January 31. In his speech the governor-general expres regret at the failure of the Fisheries treaty in the United States Senate, a said that Canada would continue to maintain her rights under the conventi of 1818. — On February 8 the estimates of the national expenditure were la before Parliament. The amount asked for the ordinary expenditures w $35,410,280, as against $36,739,257 for the previous year. In his budg speech on March 5 Mr. Foster, minister of Finance, said that the debt Canada was $236,000,000, an increase of 120 per cent in fourteen years. I anticipated a surplus of $6,000,000 in the next three years. — An importa measure, known as the Weldon Extradition bill, was passed in April. It pr vides for the extradition of embezzlers, defaulters, *etc.*, but was amended as not to be retroactive. — The cabinet council decided on March 23 to iss *modus-vivendi* licenses; but all of them are to expire on December 31, 1889. John Henry Pope, minister of Railways and Canals, died on April 1. — S Anthony Musgrave, governor of **Queensland**, died early in October. Hen Arthur Blake, governor of Newfoundland, was appointed to succeed him. T appointment was violently opposed by the government and people of the c ony, and after a brief interval Sir Henry Norman was appointed to the vaca office. Mr. Blake was afterwards made governor of Jamaica. — Sir Thom McIlwraith resigned the premiership of Queensland in November, and M Morehead, colonial secretary, became premier. — The elections in **New Sou Wales** in February showed that forty ministerialists and thirty-nine membe of the opposition had been elected. In March the ministry was defeated the question of protection and resigned. — Lord Lansdowne, the new vicer of **India**, arrived at Bombay on December 3.

FRANCE. — The Chambers met on October 15 and M. Floquet, t premier, at once introduced a bill for the **revision of the constitution.** H plan made the term of senators three years instead of nine, and that of dep ties three years instead of four. It took away from the Senate the power absolutely rejecting any bill originating in the lower Chamber, and substitut

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:refor a "suspensive veto" to expire in two years. It also provided for a ed term for the members of the ministry. The matter was referred to a nmittee, which decided in favor of revision by a special constituent sembly. This action was in the nature of an offset to the rising tide Boulangism. **The Boulangist movement,** however, continued to increase force. General Boulanger announced himself as a candidate for a vacancy the department of the Seine (Paris). The governmental party strained ery nerve to defeat him, but the election on January 27 resulted in his elec- n by a plurality of 81,550 (his majority being 54,432). During the canvass he d repeatedly denied that he aimed at a dictatorship, and protested fidelity to e Republic. Immediately after the election he wrote a letter thanking the ctors of the Seine and declaring that the Chamber had nothing before it t dissolution. One result of Boulanger's victory was that the ministers ndered their resignations, which President Carnot refused to accept. In der to arrest the progress of Boulangism, Premier Floquet brought forward bill establishing the *scrutin d'arrondissement* in place of the *scrutin de te*, under which Boulanger had secured such demonstrations of popular pport. — On February 4 M. Ferrouillat, minister of Justice, resigned; he is succeeded by M. Guyot-Dessaigne. — General Boulanger announced on bruary 8 that his programme included the adoption of the American con- tution, but with a ten-years' term for the President; the formation of a uncil of state to prepare and submit laws to a non-deliberative national uncil of 500 members, half to be elected by universal suffrage and half to be osen by the provinces; and the granting of limited local government to the ovinces. — On February 11 the *Scrutin-d'Arrondissement* bill was passed the Chamber by a vote of 268 to 222. The Senate adopted it on the 13th a vote of 228 to 52. — The question of the revision of the constitution came in the Chamber on February 14, when a motion was made that the debate adjourned. Despite the opposition of the government, the motion was lopted by a vote of 307 to 218. M. Floquet at once announced that the **inistry would resign,** and the resignations were immediately forwarded to esident Carnot. General Boulanger issued a manifesto, claiming credit r the overthrow of the ministry and saying that it was a step toward the dis- lution of the Chamber and the convocation of a constituent assembly. The ssage of the *Scrutin-d'Arrondissement* bill he pronounced a blow to uni- rsal suffrage. The work of forming a cabinet was at first entrusted to M. éline, president of the Chamber of Deputies, but was abandoned by him ter a few days. M. Tirard was then summoned to undertake the task. **he new ministry** was announced on February 21 as follows: Premier and inister of Commerce, Tirard; War, de Freycinet; Interior, Constans; nance, Rouvier; Foreign Affairs, Spuller; Justice, Thévenet; Education, llières; Agriculture, Faye; Public Works, Yves-Guyot; Marine, Admiral urès. M. Goblet refused to join the new cabinet, which was a coali- on of Opportunists and Radicals. The ministerial declaration asserted at it was their imperative duty to take all measures necessary to main- in order and respect for the Republic by counteracting or, if needful, pressing factious enterprises. — The first action taken by the new ministry ward the suppression of Boulangism was a decision on February 28

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to suppress the Patriotic league. This was resolved on because of t league's fierce denunciation of the government's course in the matter of t bombardment of Sagallo. [See Russia.] Several members of the leag were arrested and the prefects of the various departments were directed prevent forcibly, if necessary, meetings of committees of the league. March 2 a motion condemning the prosecution of the league was rejected by t Chamber of Deputies and a vote of confidence in the government was adopt — 347 to 220. Among the accused members of the league were Senat Naquet and Deputies Laguerre, Laisant and Turquet, and after acrimonio debates it was decided to prosecute them. — On March 29 the cabinet unai mously resolved **to prosecute General Boulanger** for attempting to destr the Republic. The Senate by a vote of 207 to 63 organized itself as a hi court of justice. Fearing arrest, Boulanger fled to Brussels, whence he se forth a manifesto stating that he would not submit to a trial by the Senat but was willing to be tried before magistrates or a jury. The Chamber Deputies on April 4 voted (355 to 203) in favor of prosecuting Boulanger f conspiracy to overthrow the established government. On April 5 Gene Boulanger issued another manifesto, in which he declared that all the ac imputed to him were well known when he was appointed minister of Wa and that, therefore, his colleagues were equally guilty. — The correction tribunal on April 6 acquitted Senator Naquet, Deputies Laguerre, Laisant a Turquet and other leaders of the Patriotic league of the charge of belongi to a secret society, but fined them for belonging to a society not authoriz by law. — **The trial of Boulanger** was begun in the Senate on April 12. commission, M. Merlin president, was appointed to conduct the trial. It w found necessary to examine 10,320 documents bearing on the case. On Ap 20 Boulanger was informed that his presence in Brussels was not acceptabl and he proceeded to London. — Early in October President Carnot issued decree requiring the registration of foreigners taking up their residence France. The decree was not enforced very strictly. — At the end of Octob the cabinet approved the scheme of M. Peytral, minister of Finance, for t imposition of an income tax. — The budget was adopted early in Decembe the estimates being fixed at 138,800,000 francs. The estimates for 1890, pr sented on February 11, showed an increase in expenses over 1889 of 25,000,0 francs. — Important action was taken by the Tirard cabinet on March 7, wh the decree of exile against the Duc d'Aumale was rescinded. This action w approved by the Chamber of Deputies by a vote of 316 to 147. — Admir Jaurès, minister of Marine, died on March 13. He was succeeded by Admir Krantz, who held the same office in the Floquet cabinet.

GERMANY. — Emperor William visited Vienna and Rome early October. At Rome he was received by King Humbert and afterwards he an interview with the Pope. — The Imperial Diet reassembled on Novemb 22, the Emperor opening the session. In his speech he said that his effor had been unceasing to promote peace, and that he should continue to do a in his power in this direction. When the Diet was opened for business t budget was presented. It amounted to 949,103,907 marks. It was propose to construct several new war-ships, and there was an increase in the arm expenditures of 7,000,000 marks. — There was considerable discussion i

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anuary over a bill for the protection of German interests in east Africa nd the suppression of the slave trade. Favorable action was taken. — Dr. Geffcken, who was indicted for furnishing for publication extracts from the liary of Emperor Frederick, remained in custody until January 4, when the ndictment against him was dismissed by the Supreme Court of the Empire. n consequence of attacks in the public press, the government published the ndictment as well as the decision of the Supreme Court. The indictment sserted that various passages in the published diary were prejudicial to the nternal and foreign relations of the Imperial government. This view was sus-ained by the court, but Dr. Geffcken was acquitted because it was not shown hat he was "conscious" of these prejudicial results. In consequence of the ublication of the indictment, Dr. Friedberg resigned the office of Prussian inister of Justice. Dr. von Schelling, secretary of State of the Imperial ffice of Justice, succeeded Dr. Friedberg, and Herr von Puttkamer replaced Dr. von Schelling. Subsequently General von Schellendorff, Prussian inister of War, resigned; and on April 10 it was announced that General on Verdy du Vernois had been appointed in his stead.

RUSSIA. — It was announced on October 7 that the government had uthorized the Imperial bank to make a fresh issue of 15,000,000 rubles in emporary credit notes. — The fiftieth anniversary of the entrance of M. de Giers, minister of Foreign Affairs, into the public service was celebrated on October 15. — The Czar and Czarina, while making a tour in Southern Russia, had a narrow escape from death on October 29, when an attempt was made to destroy their railway train. Both were hurt, and the Czarina uffered severely from nervous shock. They returned to St. Petersburg on November 4. Admiral Possiet, minister of Railways, was speedily dismissed n consequence of the mishap to the train, and was succeeded by Prince meretinsky, president of the military tribunal. — On December 4 it was made nown that there was a surplus of 56,000,000 rubles in the treasury. — The udget for 1889 showed a surplus of 4,500,000 rubles. — Some **friction between Russia and France** was caused in March by a filibustering expedition n the Red Sea led by a Russian adventurer named Atchinoff. The intention was to proceed against the Italians on the Abyssinian frontier. Atchinoff, y mistake, landed at Obock on French territory, occupied a fort called Sagallo, nd raised the Russian flag. The French commander attacked the fort and ompelled the garrison to surrender. The Russian government disclaimed esponsibility for the expedition, but in Paris the bombardment of the fort was onsidered a blunder, and the Chamber of Deputies adopted a resolution xpressing its good feeling for the Russian people. — Various rumors of attempts o assassinate the Czar were circulated in March and April. The latest, on April 19, announced the discovery of a plot which was to be carried out while he Czar was attending the funeral of General Paucker, minister of Roads.

ITALY. — General Viale, minister of War, stated in the Chamber of Deputies, on November 22, that railway arrangements had been completed or mobilizing the army; in case of mobilization, ordinary business would be uspended and the military would assume control of the railways. On December 1 the government asked for supplementary credits of 109,000,000 *lire* for the army and 27,000,000 *lire* for the navy. — In regard to **the re-**

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lations of France and Italy, Prime Minister Crispi said in the Senat December 6, that there was nothing to justify the supposition that a war wa probable or near; nevertheless Italy could not think of disarming, but, c the contrary, must labor to increase her armaments. — On December 22 th Chamber of Deputies, by a vote of 175 to 32, passed a bill authorizing a cred of 145,000,000 *lire* for defences. At this time it was announced that Signo Magliani, minister of Finance, had resigned. — King Humbert, on January received the members of the Chamber, to whom he said: "It is my earne wish to preserve peace, and it is my belief that for this year peace is assured He repeated this declaration in his speech on the opening of Parliamer on January 28. — It was announced in the Chamber on February 3 that th budget showed a deficit of nearly 200,000,000 *lire*. Signor Peruzzi, minister the Treasury, said it was estimated that the budget for 1890 would show a defic of 90,000,000 *lire*; to meet this, retrenchment would be necessary, and als the imposition of new taxes. — Speaking on February 5, Signor Crispi defende the policy of the government, and said that Italy could not disarm whi throughout Europe armaments were being pushed forward with redouble activity. — Early in February riots occurred among the unemployed in Rom On the 16th, in the course of a debate on this subject, a motion expressir confidence in the Crispi ministry was passed — 247 to 151. — On Februa 28 **the ministry resigned** in order to avoid the hostile vote which seeme inevitable on the government measure providing for increased taxatio Signor Crispi was at once entrusted with the duty of forming a new cabine The new cabinet was announced on March 7 as follows: President of th Council, minister of the Interior, and minister of Foreign Affairs, Crisp Finance, Doda; Treasury, Zioletti; Justice and Ecclesiastical Affairs, Zana delli; War, General Viale; Marine, Brin; Commerce, Industry and Agricu ture, Miceli; Public Works, Finali; Posts and Telegraphs, Lacava. Of th new ministry, Crispi, Viale, Brin, Miceli and Zanardelli retain the portfoli held by them in the previous cabinet. — The prime minister stated in th Chamber on April 5 that the death of King John of Abyssinia would enab Italy to extend her possessions in that country.

AUSTRIA-HUNGARY. — On January 30 Crown Prince Rudolph Fra cis Charles Joseph took his own life. Conflicting accounts of the matter we circulated, and various explanations appeared in non-Austrian newspaper The truth appears to be that he had a *liaison* with a certain Baroness Vetse and that they decided to die together. It was officially stated that the autop showed that the Crown Prince was insane. It was announced that the su cession to the throne would fall upon Emperor Francis Joseph's nephe Francis. — The fortieth anniversary of the Emperor's accession to the thro was celebrated on December 2. — A new military bill, introduced by Cou Welserheimb, minister of War, in November, aroused much opposition both halves of the empire, but especially in Hungary. On February 17 the was a demonstration against the bill at Pesth in which 30,000 persons to part. Some concessions were made by the government, and the bill was final passed. — The Hungarian Treasury returns for 1888 showed an increase revenue for the year of 26,464,221 florins. — Herr Fabinyi, Hungarian minist of Justice, retired in March on account of ill health.

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SPAIN. — It was decided by the cabinet in October to summon the Cortes) consider the question of reforms in the army. The Cortes was opened on ovember 30. Shortly afterwards a cabinet crisis was precipitated by the lection of eight Conservatives and Protectionists as members of the budget ommittee, and on December 8 the entire cabinet resigned. **A new minis-ry** was formed by Señor Sagasta as follows: Premier, Sagasta; minister of oreign Affairs, Armijo; Finance, Gonzalez; Interior, Capdepon; Justice, analejas; Commerce, Xiquena; War, General Chinchilla; Marine, Admiral rias; Colonies, Becerra. This cabinet was looked on as weaker than its redecessor. Premier Sagasta announced in the Chamber of Deputies that he former policy of the government would be continued. — An attempt to low up the royal palace at Madrid was made on January 8, but no serious amage was done. — Queen Christina, in February, signed a decree appoint-ng General Salamanca captain general of Cuba. — On February 16 Señor agasta created a sensation in the Cortes by advocating a large reduction of he army estimates in order to bring about a reduction of taxation, without eversing the Liberal party's free-trade policy. He declared that the time had ome when Spain must devote her attention to economical matters in preference o military and naval affairs, and that for a nation that harbored no warlike de-igns armaments were not needed. — In the Senate on March 20 the minister f the Interior, in reply to a question, said that there was no intention of sell-ng Cuba to the United States, and that there was not enough money in the world to buy any portion of Spanish territory. — The budget was presented y Señor Gonzalez on May 1. It shows a revenue of about 800,000,000 *pese-as* and expenditures of about the same amount.

OTHER EUROPEAN STATES. — The marriage of King Milan, of **Servia**, and Queen Natalie, was dissolved by the church in October, in spite f the Queen's protest. Toward the end of that month the King issued a proc-lamation declaring that a new constitution was necessary. The elections in November for members of the Skuptschina resulted in the return of a Radical majority of 40. The new constitution was drawn up by a special commission. It declared the kingdom hereditary, with popular representation. The King endeavored to have it modified in the direction of conservatism, but failed; new elections were ordered, which resulted in a Radical majority of about 200. When the Skuptschina was opened on December 28 some concessions were offered by the King, but as the Radicals insisted on extensive constitutional changes the King declared that unless his proposals were accepted he would dissolve the body and rule as he chose. Finally a compromise constitution was approved — 494 to 73. The ministry then resigned. On March 6 King Milan issued a decree **abdicating the throne** in favor of his son, Alexander, aged 13, and appointing Iovan Ristics and Generals Protics and Belimarkovics Regents during the youth's minority. The Regents issued a proclamation setting forth that they would endeavor to cultivate friendly relations with all powers, inaugurate a constitutional régime and place the finances of the country on a sound basis. A new (Radical) cabinet was constituted under the premiership of M. Gruics. — The **Rumanian** elections in October resulted in a defeat of the Liberals and a strengthening of the Conservative (Russophil) party. The Parliament was opened on November 13 by the King, who said

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that the government's foreign relations were absolutely satisfactory. A n ministry was announced on November 24, under the premiership of M. Rose Early in April this cabinet resigned and was reorganized (April 10) under t premiership of M. Catargi. — The **Bulgarian** Sobranye was opened on Oc ber 27, when Prince Ferdinand congratulated the country on its tranquil sta It was stated in March that the Czar had declared that he would not interfe forcibly with Bulgaria, the retention or expulsion of Ferdinand being an int nal affair. — The twenty-fifth anniversary of King Christian's accession to t throne of **Denmark** was celebrated on November 15. The Rigsdag w closed on April 1, the houses having reached no agreement upon the budget. M. Hertenstein, President of **Switzerland**, died in November; M. Hamm was elected President in December, and M. Ruchonnet Vice-President. The formal announcement was made on March 26 that the King of t **Netherlands** had become incapacitated for carrying on the governme and his infant daughter was declared Regent under the guardianship of t ministry. In **Luxemburg** the Regency was assumed by Duke Adolf Nassau. The King, however, improved in health, and on May 1 it was ma known that he would resume the government of the Netherlands and Luxemburg.

MEXICO. — President Diaz's third term began on December 1. In h message to Congress in April he said that the gradual increase of the revenu the regularity in payments and the confidence felt abroad in respect to t solvency of the Republic constituted a financial situation which, if it could n be termed prosperous, differed very favorably from that which during lon years obstructed and paralyzed the well-being of the nation. — Sebastian Lerd de Tejada, formerly President of Mexico, died in New York on April 21.

PANAMA CANAL. — In spite of earnest appeals on the part of M. d Lesseps, the Panama canal loan was not taken in December, and the **collaps of the company** and the abandonment of work on the canal followed. Th matter was brought before the French cabinet on December 13, and on th following day a bill was introduced in the Chamber of Deputies authorizin the postponement for three months of the company's liabilities. The bill wa rejected — 262 to 188. General Boulanger sent a message of sympathy t de Lesseps, and said that the rejection of the bill was the crowning sin of th Chamber. The attempts to form a new company failed, and by the beginnin of the year it became evident that the enterprise could not be continued, an the contractors refused to continue work. It was expected that trouble woul result from the enforced idleness of a large number of workmen on th Isthmus, but good order was maintained. On March 7, in the Chamber o Deputies, Premier Tirard said that the government would do its utmost fo the success of the canal. — The United States Senate on January 7 adopted resolution declaring that the government would look with **serious concer and disapproval** upon any connection of any European government with th construction or control of any ship canal across the Isthmus of Darien o across Central America, and must regard any such connection or control a injurious to the just rights and interests of the United States and as a menac to their welfare; and the President was requested to communicate this expres sion of the views of the government of the United States to the government

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of the countries of Europe. The House of Representatives took no action in the matter.

NICARAGUA CANAL. — A bill incorporating the Nicaragua Canal Company was passed by the Vermont legislature on November 13. It was a duplicate of the act introduced in the United States Senate by Senator Edmunds. This was passed by both houses of Congress in an amended form in February, and was subsequently signed by the President. It was decided to proceed with the construction of the canal as speedily as possible.

AFRICA. — Doubt as to the fate of **Henry M. Stanley** was set at rest on December 20, when a despatch was received in London stating that word had reached the west coast to the effect that Stanley had arrived on the Aruwimi. He reached there on August 17, having returned from his visit to Emin Pacha, whom he left eighty-two days previously on the Nyanza. Letters containing full details of his terrible march were received early in April. He found Emin well situated and unwilling to leave Wadelai. Stanley's plan was to return to Emin and induce him, if possible, to abandon his post in the heart of Africa. Of his movements since August 27 last nothing is yet known, although vague reports have come that Stanley and Emin are marching toward Zanibar with several thousand men, women and children, and a large quantity of ivory. — There was a brisk battle at **Suakin** on December 20, when the combined British and native forces made an attack on the rebels and routed them. The British lost only four men, while the Arab loss was 400. — There has been considerable trouble in **East Africa**, growing out of the domineering conduct of the German East-African company toward the natives and the attempt of the Germans to break up the slave trade. An insurrection of the natives took place in September and a number of missionaries and others were killed. — A revolution occurred in **Uganda** in October, when King Mwanga was deposed and his brother, Kiwewa, was enthroned in his stead. — Advices received in Rome on April 3 stated that King John, of **Abyssinia**, had been defeated and killed in a battle with the forces led by the dervish Mettema. He had been on the throne since 1872. His successor was reported to be Dagiac Mangascia.

ASIA. — The **new constitution of Japan** was promulgated on February 11. It establishes a House of Peers, partly hereditary, partly elective and partly nominated by the Mikado, and an elective House of Commons of 300 members. The right of suffrage is given to all men of the age of twenty-five and over who pay taxes to the amount of $25 yearly. Liberty of religion, freedom of speech and the right of public meeting are established. The constitution is modelled after that of Germany. The Mikado remains the source of all law, but his functions are to be exercised with the sanction of the imperial Parliament. — About the middle of October it was made known that the **Afghan** rebellion was ended and that the Ameer's authority was supreme over the whole of Afghan Turkestan. — Metrieu, Emperor of **Anam**, died on January 27; he was succeeded by his son, a lad of ten, and a regency was established. — The first railway in **China** was officially opened on November 9.

SOUTH AMERICA. — In February a law was passed by **Chili** excluding Chinese immigrants from the country. All other immigrants, however, are

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welcomed, and the government was authorized to expend $500,000 to promot such immigration. — The **Peruvian** ministry resigned early in March and new cabinet was formed. A month later this cabinet resigned on accoun of the impossibility of conciliating the minority in Congress regarding an arrangement for the payment of Peruvian bondholders.

HAYTI. — On October 17 General François Denys Légitime was electe President of Hayti by the National Assembly. Several towns, being in th hands of the rebels under General Hyppolite, were declared closed to con merce. In the latter part of October the American steamer *Haytian Republi* was seized by a Haytian gunboat on the charge of attempting to force blockade. The United States government considered this action illegal an despatched two naval vessels to Hayti. The *Haytian Republic* was thereupo surrendered. The rebellion in the Republic is still in progress, althoug President Légitime sent a despatch to the European governments early i March stating that it had been crushed. — Ex-President Salomon died i Paris on October 19.

SAMOA. — During the whole of the period under review, affairs in Samo have attracted a large share of attention. There are many German resi dents there and the Germans have manifested a desire to gain the ascendanc in the islands, which are, perhaps, chiefly important to the United States an Great Britain as a coaling station. Some time ago the Germans seized Kin Malietoa and carried him to a distant island, setting up Tamasese in hi place. In the fall a large party of natives under Mataafa rebelled. They wo several victories over Tamasese, when the Germans took up the cause of th latter and declared the islands under martial law. The United States sen war-ships to Samoa to protect American residents. Germany also sent war vessels, and for a time a conflict seemed imminent. There has been a goo deal of diplomatic correspondence on the Samoan question, and at length i was agreed that a conference to consider and settle it, which was begun a Washington a few years ago, should be resumed at Berlin. The conferenc opened on April 29. The United States is represented by John A. Kasson, William Walter Phelps, and George H. Bates; Germany by Count Herber Bismarck and Dr. Krauel; and England by Sir Edward B. Malet, Britis ambassador at Berlin, Mr. Scott, British minister at Berne, and Mr. Crowe. Before the conference began, Prince Bismarck repudiated the action of the German consul at Samoa, by whose direction the German men-of-war fired upon the natives. The liberation of Malietoa was announced on May 1, it being stated that he had apologized. This was accepted as a prelude to his reinstatement as King. — While the war-ships of the three governments were lying in the harbor of Apia on March 15 a tremendous hurricane broke upon the islands. Three American vessels, the *Trenton*, *Vandalia* and *Nipsic*, were cast upon the beach and the two first named were totally lost. The *Nipsic* lost seven men and the *Vandalia* four officers and thirty-nine men. Two German vessels, the *Adler* and *Eber*, were also destroyed, and a third, the *Olga*, was stranded. The German losses were ninety-six. The English man-of-war *Calliope* put to sea and was thus saved.

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